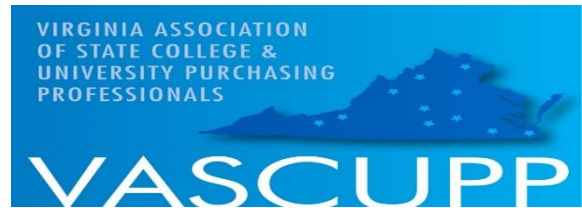




Purchasing Department
4400 University Drive, Mailstop 3C5
Fairfax, VA 22030
Voice: 703.993.2580 | Fax: 703.993.2589
<http://fiscal.gmu.edu/purchasing/>



**REQUEST FOR PROPOSALS
GMU-1503-18**

ISSUE DATE: December 14, 2018

TITLE: Beverage Pouring Rights

PRIMARY PROCUREMENT OFFICER: James F. Russell, Director, jrussell@gmu.edu
SECONDARY PROCUREMENT OFFICER: Erin Rauch, Assistant Director, erauch@gmu.edu

QUESTIONS/INQUIRIES: Email all inquiries for information to both Procurement Officers listed above no later than 4:00 P.M. EST on January 22, 2019. Responses to questions will be posted on the Mason Purchasing Website by 4:00 P.M. EST on February 19, 2019.

HOLIDAY SCHEDULE: Mason will be closed beginning December 21, 2018 and will re-open January 7, 2019. No official business shall be conducted during this period.

PROPOSAL DUE DATE AND TIME: May 15, 2019 @ 2:00 PM EST. Hand deliver or mail proposals directly to the address above. Electronic submissions will not be accepted. A public opening will not be held. Late proposals will not be accepted.

Note: A return envelope is not being provided. It is the responsibility of the Offeror to ensure the proposal is submitted in a sealed envelope, box, container, etc. that clearly identifies the contents as a proposal submission in response to this Request for Proposal. See Section XII, Paragraph C herein. If delivering proposals by hand, deliver to the Purchasing Department located in Suite 4200 of Alan and Sally Merten Hall (Merten Hall), Fairfax Campus. [Campus Map](#)

In Compliance With This Request For Proposal And To All The Conditions Imposed Therein And Hereby Incorporated By Reference, The Undersigned Offers And Agrees To Furnish The Goods/Services In Accordance With The Attached Signed Proposal Or As Mutually Agreed Upon By Subsequent Negotiations.

Name and Address of Firm:

Legal Name: _____ Date: _____

DBA: _____ By: _____
Signature

FEI/FIN No. _____ Name: _____

Fax No. _____ Title: _____

Email: _____ Telephone No. _____

SWaM Certified: Yes: _____ No: _____ (See Section VII. SWaM CERTIFICATION for complete details).

SWaM Certification Number: _____

This public body does not discriminate against faith-based organizations in accordance with the *Governing Rules*, § 36 or against a Bidder/Offeror because of race, religion, color, sex, national origin, age, disability, or any other prohibited by state law relating to discrimination in employment.

RFP# GMU-1503-18

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- I. **PURPOSE.** The purpose of this Request for Proposals (RFP) is to solicit sealed proposals from qualified sources to establish a contract through competitive negotiations with one qualified source for providing beverage pouring rights services for George Mason University. George Mason University (hereinafter referred to as “Mason”) is an Institution of Higher Education of the Commonwealth of Virginia.
- II. **PURCHASING MANUAL/GOVERNING RULES:** This solicitation and any resulting contract shall be subject to the provisions of the Commonwealth of Virginia *Purchasing Manual for Institutions of Higher Education and their Vendor's*, and any revisions thereto, and the *Governing Rules*, which are hereby incorporated into this contract in their entirety. A copy of both documents is available for review at: <https://vascupp.org>
- III. **COMMUNICATION:** Communications regarding the Request For Proposals shall be formal from the date of issuance until a contract has been awarded. Unless otherwise instructed offerors are to communicate with only the Procurement Officers listed on the cover page. Offerors are not to communicate with any other employees of Mason.
- IV. **FINAL CONTRACT:** ATTACHMENT B to this solicitation is Mason’s standard two-party contract. It is the intent of this solicitation to base the final contractual documents off of Mason’s standard two-party contract and Mason’s General Terms and Conditions. Any exceptions to our standard contract and General Terms and Conditions should be denoted in your RFP response. Other documents may be incorporated into the final contract, either by way of attachment or by reference, but in all cases this contract document and Mason’s General Terms and Conditions shall jointly take precedence over all other documents and will govern the terms and conditions of the contract.
- V. **ADDITIONAL USERS:** It is the intent of this solicitation and resulting contract to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institutions, or affiliated corporations may access any resulting contract if authorized by the contractor.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), the resultant contract(s) will be extended to the entities indicated above to purchase goods and services in accordance with contract terms. As a separate contractual relationship, the participating entity will place its own orders directly with the Contractor(s) and shall fully and independently administer its use of the contract(s) to include contractual disputes, invoicing and payments without direct administration from the University. No modification of this contract or execution of a separate agreement is required to participate; however, the participating entity and the Contractor may modify the terms and conditions of the contract to accommodate specific governing laws, regulations, policies, and business goals required by the participating entity. Any such modification will apply solely between the participating entity and the contractor.

The University may require the Contractor provide semi-annual usage reports for all entities accessing the contract. The University shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor to extend the contract. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of the contract no matter the circumstances.

Use of this contract(s) does not preclude any participating entity from using other contracts or competitive processes as needed.

- VI. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eProcurement solution by completing the free eVA Vendor Registration. All bidders or offerors agree to self-register in eVA and pay the Vendor Transaction Fees prior to being awarded a contract. Registration instructions and transaction fees may be viewed at: <https://eva.virginia.gov/>
- VII. **SWaM CERTIFICATION:** Vendor agrees to fully support the Commonwealth of Virginia and Mason’s efforts related to SWaM goals. Upon contract execution, eligible vendors (as determined by Mason and the Department of Small Business and Supplier Diversity) shall submit all required documents necessary to achieve SWaM certification to the Department of Small Business and Supplier Diversity within 90 days. Vendors currently SWaM certified agree to maintain their certification for the duration of the contract and shall submit all required renewal documentation at least 30 days prior to existing SWaM expiration.
- VIII. **PERIOD OF PERFORMANCE:** Ten (10) years from date of award (or as negotiated) with two (2) successive five-year renewal option (or as negotiated).

- IX. BACKGROUND:** George Mason University's short history is one of an enterprising and innovative pioneer, creating a major teaching and research university from a small, one-room schoolhouse in just 50 years. George Mason University is recognized as an innovative, entrepreneurial institution with global distinction in a range of academic fields. With strong undergraduate and graduate degree programs in engineering and information technology, dance, organizational psychology and health care, Mason students are routinely recognized with national and international scholarships. Enrollment is more than 36,000, with students studying in 198 degree programs at the undergraduate, masters, doctoral, and professional levels.

Mason has campuses in Fairfax, Arlington, and Prince William counties. In addition to these three campuses, George Mason University operates a site in Woodbridge, VA and has partnered with the Smithsonian Institution to create the Smithsonian-University School of Conservation in Front Royal, Virginia. Approximately 6,000 employees are distributed at these locations. Mason also offers programs online and at the Center for Innovative Technology in Herndon. Each location has a distinctive academic focus that plays a critical role in the economy of its region.

- X. STATEMENT OF NEEDS:** Mason seeks to grant certain exclusive or near exclusive rights for Beverage promotion and availability on the George Mason University campuses - primarily at Fairfax, Arlington and SciTech (Prince William). Other sites are at Front Royal and Woodbridge. The primary element of this agreement will be for carbonated and non-carbonated Beverage available at food service locations, dining halls, academic, administrative, residential and athletic facilities, retail venues and vending machines. In addition to Beverage sales the contractor will be provided with exclusive Beverage access to a variety of promotional and marketing opportunities aimed at enhancing the contractor's brand recognition and acknowledging the partner's support of Mason. The contractor should propose innovative vending options that will increase vending and retail sales, and create loyal customers keeping in mind Mason's diverse population and well-being focus. Proposals should address the following:

A. GENERAL VENDING AND POURING OPERATIONS REQUIREMENTS

1. Vending and Equipment

Under the current pouring rights contract, Mason currently has 151 beverage vending machines (Fairfax – 125, Arlington – 7, Prince William – 17, Front Royal – 1, Woodbridge – 1) distributed throughout all campuses with all of them accepting student ID cards with Mason Money, credit cards, and cash. The current beverage vending machine equipment models primarily throughout the campus are: Glass Fronts - DN5800 and Stack – RVCC550/RVCC660. Currently there are approximately 37 Glass Fronts on campus and Mason desires to increase this to 50 at the beginning of a new contract. Visit <http://shopmason.gmu.edu/wp-content/uploads/2018/09/Vending-Machines-9-10-18.pdf> to see a full list of beverage and snack vending machines and their locations. Visit http://shopmason.gmu.edu/wp-content/uploads/2018/09/vending_map-612.pdf to see a campus map that shows the distribution of vending machines. Visit <http://shopmason.gmu.edu/wp-content/uploads/2018/09/Coolers-and-Fountain-Equipment.pdf> to see current contractor coolers and fountain equipment used on campus.

a. Contractor will supply a list indicating each type and model of machine proposed for this contract. Include a product brochure for each type machine proposed. Machines will be new, current production models or as negotiated and ultimately approved by Mason. All machines will contain coin changers and dollar bill validators, credit and debit card readers. Card readers must be compatible with and able to communicate with the ATRIUM – JSA Technologies Inc. system.

b. Mason has provided a list of the current vending locations on campus. Contractor will submit a proposed list of equipment for each location including product mix, as well as any other locations they think Mason should consider. Include the type and model of machines for each location. Mason reserves the right to negotiate the type of equipment installed at each location. A visual image and specifications for each machine model should be provided as well.

c. Mason is interested in offering Mason Money (a prepaid debit account on student ID cards) transactions at all locations. Transactions are to be on-line. Contractor is to include in its Equipment Information a narrative and related specifications of all components needed to offer debit card transactions such as equipment to be used, methods to verify transactions so that payments can be processed, etc. On-line transactions will require a separate agreement with the Mason Card Office. The per transaction fee will be 3%. No transaction fees shall be charged to the customer for any sales transactions. The Mason Money Merchant Agreement is available here: <https://masonid.gmu.edu/wp-content/uploads/2018/10/Mason-Money-Merchant-Agreement-2018.pdf>

d. Mason is interested in offering credit card transactions at all locations. Transactions are to be on-line. Contractor is to include in its Equipment Information a narrative and related specifications of all components

needed to offer credit card transactions such as equipment to be used, methods to verify transactions so that payments can be processed, etc. The credit card reader must be PCI-DSS compliant.

e. Contractor warrants the products and the equipment shall be of the highest quality, consistent with industry standards and any applicable Federal, State, and local statutory requirements. Only current model equipment should be installed at Mason.

2. Product and Price Information

Mason is interested in offering all the major beverage brands of the successful bidder in c-stores, dining halls, concessionaires, and vending machines. Mason is also desires to have healthier beverage options, in addition to water. The current vending machine pricing is: 20oz Dasani water and carbonated drinks: \$1.75, 18.5-20oz teas and vitamin water: \$2.00, Sports Energy drinks: \$2.50. Visit <https://shopmason.gmu.edu/wp-content/uploads/2018/06/GMU-VOLUME-BREAKDOWN-2018.xlsx> for volume and sales information.

a. Contractor shall provide a complete list of proposed products to be vended. This list will include brand name, portion size, nutritional information, and proposed selling price. In addition, the contractor shall provide a plan-o-gram of products to be vended.

b. Contractor shall stock its machines adequately, with only the products, brands, and sizes Mason specifies, and will not change products, brands or sizes without Mason's permission.

c. Contractor shall maintain fresh products in the machines and will comply with state, federal, local laws and regulations in regard to storage and transport of beverage items. No product should be in machines past its "best when use by", "freshness" or "expiration" date.

d. The sale price of all vended, retail products, and post-mix should be fixed for the first (5) years of the contract. The itemized product and price list, made a part of this agreement, contains the initial prices for the products. Thereafter, if the prices contractor pays for its products increases or the market prices have adjusted, Mason may grant permission for price increases or decreases. The contractor must submit written requests along with supporting documents for price changes to Mason by April of any year and may not change prices until Mason approves. Said approval must be received in writing and any approved price changes must occur and be completed between the first and second full weeks of August of any year.

e. Price increases/decreases or addition of new products not previously negotiated in the RFP shall be submitted to the University for approval at least ninety (90) days prior to implementing requested changes.

3. Service Information

Mason is committed to exemplary service. Contractor should describe the service and quality control procedures proposed for this pouring rights program.

a. The contractor shall provide on-call maintenance and repair service for its machines 24-hours a day, seven days a week. Contractor shall provide Mason with a toll-free telephone number for service calls, and will respond on-site to calls within **four** hours between 7:00 AM and 6:00 PM, Monday through Friday, and within 24 hours during weekends. Contractor will keep at least one on-duty supervisor available from 8:00 AM to 5:00 PM each day that Mason is open, and at least one on-call supervisor available at other times. Name, telephone and email contact information will be provided of such supervisor.

b. The contractor may enter Mason's property to install, repair, supply, and remove vending machines between 7:00AM and 6:00PM, unless otherwise directed by Mason.

c. The contractor will maintain a program of regular preventive maintenance and replacement of worn, damaged, or malfunctioning machines. Mason may require that contractor replace machines that cannot be returned to service within four working days of the service call. The replacement machines will be at least as good as the machines replaced.

d. The contractor will keep the machines and adjacent areas neat and sanitary. The contractor will clean spills that occur while filling or cleaning its machines, clean the front of the machines each time contractor supplies them, and remove packaging and waste from Mason's campus. Contractor will cooperate with Mason to move machines as needed to allow custodial staff to clean the space.

e. The contractor will supply the machines on a schedule that ensures that 80% of the vend slots in each vending machine are filled at all times, unless Mason directs otherwise. The parties may agree that reduced service and selections are appropriate during summer school, holidays, or building shutdowns.

f. On each machine contractor will place instructions on how to: (1) operate the machine, (2) report malfunctions, (3) comment on product quality, and (4) request refunds. Mason will provide the "label template" with appropriate language to direct customers for refund requests for the contractor to post.

g. The contractor will provide up to six (6) cash funds of up to \$40.00 each for refunds at locations on campus as Mason designates. Mason will track refunds using a log sheet. Cash funds at each location must be routinely replenished at least once a week and within 24 hours of any request.

4. Operational Information

Mason is committed to effective management of operations. Contractor should describe the operational protocols proposed for this pouring rights program. As a minimum the contractor will:

a. Contractor shall retain title to all machines, and the machines shall be the responsibility of the contractor.

b. Contractor shall pay for all machines, freight, repair parts and cost of servicing associated with execution of this agreement.

c. Contractor shall supply a minimum of 151 beverage vending machines. The final number of machines installed may be increased or decreased if both the contractor and Mason agree on the number and placement. Energy Star rated machines are preferred. With campus construction, contractor should expect to grow by 10 machines within first 5 years of the contract.

d. Contractor shall have reasonable access to its equipment at all campus locations for servicing at times when the buildings are closed for a period of time (i.e., semester break, fall, winter and spring breaks, etc.). All equipment is to be attractive, uniform in appearance and maintained in good working condition. Mason Contract Administration shall inspect machines for acceptability, and contractor shall remove within 48 hours any machine that is not acceptable to Mason or that needs to be removed or relocated due to Mason needs (i.e., construction, maintenance, housekeeping, etc.).

e. No beverage vending machine will at any time be removed, replaced, relocated or installed by contractor without the Contract Administrator in attendance or without the consent of such individual. No machine shall be placed on Mason property not deemed appropriate for the environment.

f. The vending machines shall be cleaned internally prior to the beginning of each semester and during the remainder of the year at least monthly. The machines must be kept clean, attractive and sanitary at all times.

g. Contractor shall be responsible, at its own expense, for maintaining all machines in proper working condition including necessary replacement of any parts that become worn, damaged, or broken.

h. Contractor shall conduct all of its business operations related to George Mason University in its own name, and shall not bind Mason in any way. Contractor shall not represent expressly or implied that it is an agency of Mason or acts on behalf of Mason. Contractor shall make all contracts in its own name and shall be responsible for any goods purchased by the Contractor, or for any other obligations or liabilities assumed or created by the Contractor. Purchase, delivery, storage and payment considerations related to beverage vending operations shall be at the sole risk and expense of the Contractor.

i. Contractor shall be responsible for the removal of all contractor property from Mason upon termination of the contract. If said equipment is not removed within ten (10) working days of written notice of termination, Mason may discard or remove and store the property. All costs of removal, storage, and revenue loss resulting shall be the responsibility of the Contractor. Damage resulting from removal and storage shall be the sole responsibility of the Contractor.

j. Contractor has sole responsibility for any loss due to theft, vandalism or damage of any kind. Mason shall take reasonable precautions to protect all equipment supplied as a result of this contract.

k. Contractor will obtain and maintain all licenses and permits required by law for its operations under this agreement.

l. Mason shall furnish utilities to supply power to each vending machine. However, Mason cannot guarantee the uninterrupted provision of utilities. Mason shall not be liable for product or revenue loss which may result from the interruption or failure of utilities.

m. The primary Mason contact for refunds and service-call purposes will be the Office Manager, Auxiliary Enterprises. Other specific campus locations/contacts will be designated for refund distribution and service-call management.

n. Mason will communicate all reported malfunctions in a timely manner.

o. Contractor shall adhere to all university parking rules and regulations, including purchasing appropriate campus parking passes for vehicles.

p. Mason will provide card access to contractor for buildings requiring such access so vending machines can be serviced. Replacement card access will be at the cost of the Contractor in the amount of \$20 per replacement card.

q. All vending machine installations or removals must be approved in writing by the contract administrator. The contractor will have ten (10) working days to execute these requests. The contractor will, however, immediately respond to urgent requests related to construction, high profile events involving media, secret service, etc.

5. Reports and Records

Mason is committed to contract transparency. As a minimum the contractor shall:

a. Collect and count all money on a regular basis, providing accurate quarterly commissions and sales reports to the Contractor Administrator.

b. Records of sales and commissions for individual machines and a quarterly report shall be submitted to Mason. The quarterly report shall contain the following minimum information:

- List all information by vending period
- Campus
- Building/Room location
- Type of machine (glass front, stack, etc.)
- Machine I.D. Number
- Product Type (Water, Carbonated, Juice, Energy, etc.)
- Amount of money collected during the month of report
- Gross sales by product, machine and campus
- Commissions by product, machine and campus
- Total gross, commissions, and bottles sold by campus

c. Provide quarterly sales reports in an EXCEL Spreadsheet format (.xlsx or .xls) to allow for easy migration of data into Mason's contract management system. The fiscal year is defined as July 1-June 30. Contractor should provide a sample with its proposal.

d. Keep accurate records of financial or working processes and any records relative to the performance of this contract. Contractor further agrees that such books and records shall be subject to inspection and audit by any person designated by Mason at all reasonable times during business hours.

e. Retain all books, records and other documents concerning performance of this RFP for at least five (5) years after termination of this RFP or final payment under it. Contractor shall upon request allow Mason to have full access to, and the right to examine, any such documents during such period and the period the contract is in effect.

f. Provide information for university reporting efforts and initiatives, including sustainability initiatives.

B. SUSTAINABILITY PRACTICES

The contractor is expected to uphold Mason's strong commitment to environmental consciousness and social responsibility. Describe programs and processes the contractor will use to support Mason's sustainability commitment locally and corporately.

C. EXCLUSIVITY AND EXCEPTION

1. Mason offers exclusive rights for all hot and cold, carbonated and noncarbonated beverages, specific to the contractors' brand, except where there are no competitive products.
2. The exclusive obligation does not include coffee, freshly brewed tea, chocolate or cocoa-based drinks, milk, flavored milk, smoothies, energy shots, supplements, beer/wine (alcoholic, low alcoholic, nonalcoholic) or water drawn from the public water supply or juice squeezed fresh on Mason's premises.
3. The exclusive obligation does not include cups and lids where the concessionaire has a branded cup. In the event where this is not the case, the exclusive obligation applies as long as contractor is able to properly service orders. In the event where two or more orders have not been properly processed within a six (6) month period for a specific concessionaire, the exclusive obligation may be deemed void, at discretion of the university, for the specific concessionaire.
4. Campus Convenience Stores – Mason shall have the right to sell competitive products at its convenience stores, provided, however, contractor bottle/can products shall constitute at least eighty percent (80%) of the cooler space occupied by competing products. No competitive products shall be made available outside of the cooler space and all warm package sales (displays, shelf space and racks) shall be exclusively contractor products. Any competitive products shall not be allowed advertising or promotional rights. Contractor products shall constitute one hundred percent (100%) of the fountain Beverages sold at each such location. Where possible, floor space will be available for 12 packs, 2 Liter and other take home packaging of contractor products.
5. Private Events – The serving of competitive products at private events not sponsored by university shall be allowed.
6. Special Promotional Events – Temporary signage, advertising or trademark visibility for competitive products may be displayed during Special Promotional Events; however, the contractor's exclusive Beverage availability will not be affected during such Special Promotional Events and no competitive products may be sold or sampled.
7. Food Shows and similar events – If a university venue is rented for a food show or similar event and a competitive product vendor is a part of the event, the competitive product vendor shall be allowed to sample, display or serve competitive products (not sell).
8. Branded Venues – Branded food operations (such as Starbucks and Panera Bread) that have agreements to sell bottled competitive products shall be allowed to sell bottled products, however, no promotional or advertising for competitive products shall take place outside such branded venues. This exception does not apply to post-mix product.

D. OPPORTUNITIES IN ATHLETICS

Mason Athletics generates regional and nationwide interest and financial support for the university's 22 sports, helping to provide a rewarding, memorable and transformative collegiate experience to almost 500 student-athletes. The list below is indicative of the promotional opportunities Mason is ready to provide to the selected contractor. View Athletics engagement, outreach, and exposure data here to gain a better sense of the relationship value: http://shopmason.gmu.edu/wp-content/uploads/2018/10/MasonData_001.pdf.

A. Targeted Opportunities: The campus will make a number of high visibility areas available to the contractor for marketing, and signage celebrating the exclusive relationship with the university. High visibility locations include the EagleBank Arena, Fieldhouse, track fields, and the student centers. Opportunities will include prominent display in all athletic venues and permanent signage placement or digital advertising on all venue scoreboards. Note: Mason has existing contract for certain commercial activities. The selected Offeror may coordinate and procure the following activities, as mutually agreed upon, with Mason's commercial rights vendor.

1. Brand Acknowledgement
 - a. Game Day partnerships
 - b. On-court promotions
 - c. On-site product sampling events
 - d. Premium giveaways
 - e. In game PA Announcements
 - f. Videoboard (Scoreboard) Features
 - g. TV visible & static signage
2. Contractor's print logo will be included on:

- a. Sports Posters
 - b. Game Day/Event programs
 - c. Athletics pocket schedules
 - d. Schedule posters
 - e. Season ticket brochures
3. Digital Marketing Opportunities
 - a. Contractor logo will be placed on Mason Athletics Home page with a direct link to contractor's website
 - b. Contractor will be included in social media campaigns run through Mason Athletics
4. Other:
 - a. Box Office Naming rights
 - b. Practice Facility Sponsorship
5. The contractor will also have the opportunity to enhance brand recognition by providing branded equipment in support of athletic events, including:
 - a. 5 and 10 gallon coolers
 - b. Branded towels
 - c. Squeeze bottles and carriers
 - d. Special events trailers on an as needed basis
6. Contractor will receive the following ticket considerations:
 - a. Four (4) Court Seat or VIP tickets to Mason Men's Basketball home games with parking and green room hospitality room access
 - b. Four (4) Court Seat or VIP tickets to Mason Women's Basketball home games

E. CAMPUS MARKETING AND MERCHANDISING

The contractor shall have the following promotional and merchandising rights, which are exclusive to Beverages.

1. Contractor may market and promote Beverages in connection with the university.
2. Contractor may use, with per instance written permission from contract administrator, the University Marks on a royalty-free basis. The contractor will have the right to incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items and materials.
3. Mason will work with the contractor on a case by case basis to assist in promotions conducted by contractor with its customers.
4. Contractor may refer to itself in any marketing materials as a "sponsor" of the university and refer to any brand of products in any of the contractor's marketing materials as the "official" or "exclusive" soft drink, sports drink, tea, juice, or juice drink of the university.
5. Contractor may undertake Beverage promotions at or in connection with the university, including offering products in promotional packaging bearing the University Marks on a royalty-free basis with prior approval.
6. Contractor may sample products and survey individuals on the campus with prior approval of the contract administrator as to location and time availability. Requests must be made at least ten (10) working days in advance.
7. Contractor may have all Beverages served, sold, or dispensed on the campus in disposable vessels served in approved cups, except where exceptions apply.
8. Contractor may have materials promoting the products at the point-of-sale on the campus displayed in a manner and location acceptable to contractor and university.
9. Contractor shall make any window panels on the vending machines available to the university to promote campus messaging.
10. Mason will have the right to pre-approve the concept for any promotional activity, any artwork or other items created by contractor for use in promotional activities that incorporate any of the University Marks. Mason will have ten (10) working days to respond to any submission.

11. Mason will not maintain any agreement with any competitive products in any fashion that creates or tends to create the impression of a relationship or connection between the university and any competitive product.
12. Mason will not allow any permanent or temporary advertising, signage, or trademark visibility for competitive products to be displayed or permitted anywhere on the campus. This does not prevent on-Campus consumption by students, faculty, or their guests of competitive products.
13. Contractor shall propose an annual marketing and product promotions program. Please describe your proposed program.
14. Contractor shall test and launch new and existing product lines on campus. Please describe your proposed program.
15. After this Contract is awarded, the successful Contractor will work with Athletics regarding athletic sponsorship opportunities.

F. BEVERAGE SALES AND VOLUME

The contractor will enjoy a preferred vendor relationship comprised of 100% of fountain dispensed beverage sales at campus venues, 100% pouring rights at Mason athletic events, 100% of product distribution in beverage vending machines and 80% allotment of campus wide retail shelf space for canned/bottled beverages.

1. Established rights for beverage sales will include the following dining service and concession/independent food operator venues:
 - A) Dining services agreement with Sodexo
Visit <https://shopmason.gmu.edu/location/> to see venues and brands
 - B) Independent Food Operators within the Student Centers (non-Sodexo)
Chipotle
Panera Bread
Wing Zone
 - C) Independent Food Operators within Merten Hall (non-Sodexo)
Panda Express
Manhattan Pizza
 - D) Concessionaires within the EagleBank Arena
Chick Fil A
Patriot Grill
George Grill
Austin BBQ stand
Ice Cream stand
Carvery stand
Hotdog stand
Piasano's Pizza stand
Dip & Dots stand
Coaches Corner
Mason Green
Popcorn stand
Hershey stand
 - E) Vending Machines (various locations, see list - <http://shopmason.gmu.edu/wp-content/uploads/2018/09/Vending-Machines-9-10-18.pdf>)

XI. FINANCIAL CONSIDERATIONS AND ADMINISTRATION:

Mason's beverage sales and volume for period 5/17-4/18 is in summary below. More detail information is here: <http://shopmason.gmu.edu/wp-content/uploads/2018/11/BEVERAGEVOLUMEANDSALES.xlsx>

Type	Volume	Sales
Bottles & Cans (cases)	21,210	\$398,728
Fountain/Post-mix (gallons)	20,055	\$333,859
Vending (cases) (151 machines)	14,061	\$607,906

Fountain/Post-mix Minute Maid (cases)	2,822	\$206,586
Totals	58,148	\$1,547,079

Note: Beverage volume and sales numbers have been curated from Coca-Cola Bottling Company, Coca-Cola North America, Chipotle and Panera Bread.

- A. The contractor shall have complete responsibility for the financial administration of the vending program. Such responsibilities include, but are not limited to, ordering product, billings and collections from third parties, processing payments for all goods, acceptance and deposit of all funds, reconciliation of accounts, preparation of annual financial reports and all other such activities that may apply. Product pricing requires the approval of the Contract Administrator.
- B. The contractor shall supply its most current, certified year-end balance sheet and income statement and any other documentation necessary to demonstrate its capability to perform the agreement resulting from this solicitation without assistance from any outside source(s).
- C. The contractor shall pay to Mason the greater of a **minimum annual commission guarantee** and **fixed commission percentage based on vending gross sales**. The contractor shall specify this minimum annual commission guarantee and commission percentage in its proposal for each contract year. Adjustments for the full length of the contract period should be made, as appropriate. Commissions are paid based on gross sales, including cash, credit/debit card or other forms of payment. Mason's current commission rate is 37%.
- D. The contractor should show a schedule of projected gross sales and commissions for each contract year.
- E. In addition to the minimum annual commission guarantee, the contractor shall pay to Mason a **contract administration fee** of \$100,000 to support annual indirect costs on or before August 15 of each contract year, increasing annually by 3%.
- F. The contractor should provide **vending product pricing and case product pricing** the university would follow when ordering product. The contractor shall honor any existing national pricing agreements it has with any contracted dining operations at Mason.
- G. The contractor should donate a minimum of 3,000 cases of **gratis product** annually to Mason for support of Athletics and other university-sponsored events, which will help market the brand on campus. This product will be delivered by the contractor to multiple campuses and offices as scheduled by the university on multiple days of the week.
- H. The contractor should guarantee access to an **athletic equipment fund** to be administered by the athletics equipment manager, held by the contractor, and used to provide water bottles, bottle carriers, carts cups, towels ice chests, etc. Mason maintains final decisions on the use of funds. A minimum expectation is \$17,000.
- I. The contractor should guarantee annually an **exclusive pouring rights fee**, for each contract year, to Mason to be used for Athletics sponsorships/programmatic support and other programs as directed by the university. Mason currently receives \$425,000, annually, as negotiated in 2011.
- J. The contractor should guarantee access to a **campus marketing fund** to be administered by the contract administrator, held by the contractor, and used for marketing/promotional/sponsorships geared towards driving brand awareness and sales. Contractor should work cooperatively with Mason to execute marketing initiatives as needed. Mason maintains final decisions on the use of funds. A minimum expectation is \$20,000.
- K. The contractor should make any other offers it believes would be of value in an exclusive pouring rights agreement.
- L. The contractor shall advise Mason in advance of senior management changes and changes in staff that have direct contact with Mason within five (5) days of action. Mason also retains the right to require the reassignment of any management personnel or employee for any justifiable reason such as abuse of position, failure to abide by Mason's policies or failure to abide by terms of contract. Staff to be assigned to manage this partnership should be provided along with their experience and bio. At minimum the contract administrator and day-to-day operations manager should be present at any possible on-site presentations.

- M. Contractor shall meet with the Contract Administrator on a regularly basis or when requested to make adjustments in operations, discuss new industry options, plan marketing opportunities, review sales, service/repair issues and the program in general.
- N. Contractor shall conduct an in-person annual year-end business review of prior year performance to include, but not be limited to a review of key financial data (bottles/cans (cases), fountain (gallons), vending (cases) sales and volume), product mix, product line performance, a recap of marketing efforts and upcoming events and/or beverage trends with the Contract Administrator and designated team no later than August 15 following each contract year.
- O. The contractor shall perform background checks on any staff servicing the campus and submit signed documentation with proposal to Mason acknowledging that such background checks are regularly facilitated.
- P. In the event of a transition, the existing and new contractor shall mutually transition equipment with the intent to ensure the campus community is able to receive beverage services with little interruption. The transaction should occur and be completed within ten (10) working days from the start of the transition. Please provide a transition plan with the following priorities in mind – Fairfax: JC Vending, restaurants, opened residence halls; Arlington: Founders Hall Vending, restaurants; Prince William: Freedom Center Vending, restaurants; Front Royal and Woodbridge.

XII. OTHER INFORMATION:

- A. The current beverage contract terminates June 30, 2020.
- B. The current food service provider, Sodexo, contract terminates June 30, 2023.
- C. The current snack vendor provider, Canteen, contract terminates June 30, 2024 and has 86 vending machines on campus (Fairfax-72, Arlington-6, Prince William-8).
- D. Aspirational university enrollment data can be viewed here (information is subject to change): <http://shopmason.gmu.edu/wp-content/uploads/2018/09/Smart-Growth-Projections.xlsx> .
- E. The university 3-year academic calendar is located here: https://registrar.gmu.edu/wp-content/uploads/3-Yr_8-Week-Modular-Calendar_online-only_FINAL-25-June-2018-Web.pdf .
- F. A copy of the Customer Refund and Problem Report Log can be viewed here: <http://shopmason.gmu.edu/wp-content/uploads/2018/09/Vending-Refund-and-Problem-Log.xls> .
- G. The contract for concessions at the EagleBank Arena Center and other Athletic venues is handled by Sodexo through a separate contract with Monumental Sports and Entertainment. The University will require any future successful respondents to comply with the exclusive beverage pouring rights agreement.

XIII. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS:

A. GENERAL REQUIREMENTS:

- 1. RFP Response. In order to be considered, Offeror must submit one (1) original signed proposal and six (6) copies. In addition, Offeror shall submit one (1) complete copy of the original proposal on CD or flash drive. If proposal contains proprietary information, Offeror shall submit two (2) CD's or flash drives; one (1) with proprietary information included and one (1) with proprietary information removed (see Item 2e below for further details regarding proprietary information). Offeror shall clearly label each CD/flash drive identifying the content of each.
- 2. Proposal Presentation:
 - a. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted.
 - b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirement of the RFP. Emphasis should be on completeness and clarity of content.

- c. Each hardcopy of the proposal should be bound in a single volume where practical. The original hard copy proposal must be clearly marked on the outside of the proposal. All documentation submitted with the proposal should be bound in that single volume.
 - d. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter and repeat the text of the requirement as it appears in the RFP. If a response covers more the one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirement of the RFP should be inserted at the appropriate place or be attached at the end of the proposal and designated as additional material. Proposals which are not organized in this manner risk being eliminated from consideration if the evaluators are unable to determine where the RFP requirements are specifically addressed.
 - e. Ownership of all data, material and documentation originated and prepared for Mason pursuant to the RFP shall belong exclusively to Mason and be subject to public inspection in accordance with Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offerors shall not be subject to public disclosure under this Act; however, the Offeror must invoke the protection of §34 of the *Governing Rules* in writing, either before or at the time the data is submitted. **The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary.** The proprietary or trade secret material submitted must be identified in some distinctive method such as highlighting or underlining and must indicate only the specific words, figures or paragraphs which constitute proprietary or trade secrets. **Designating the entire contents of a proposal, line item prices and/or total prices as proprietary is not acceptable. If after given a reasonable time, the Offeror refuses to withdraw the aforementioned designation, the proposal will be rejected.**
3. **Oral Presentation:** Offerors who submit a proposal in response to this RFP **may** be required to give an oral presentation of their proposal to Mason. This will provide an opportunity for the Offeror to clarify or elaborate on the proposal but will not affect the original submitted proposal. Oral presentations are an option and may not be conducted. Therefore, submitted proposals should be complete.

Mason expects that Offerors who are invited to give an oral presentation will utilize the person or persons who will be working on the project to make the presentation so the quality and experience of the contractor's staff can be evaluated prior to making selection. **Should oral presentations be required, they will be scheduled for June 11, 12, 13 or 14, 2019. These dates are critical and alternative dates may not be available, so please allow for proper scheduling.**

- B. **SPECIFIC REQUIREMENTS:** Proposals should be as thorough and detailed as possible to allow Mason to properly evaluate the Offeror's capabilities and approach toward providing the required services. Offerors are required to submit the following items as a complete proposal.
 1. The front page of the RFP with the name, address, date submitted and the signature of the responsible officer of the Offeror; and, all addenda, if any, signed and completed as required.
 2. Completed Attachment A - Vendor Data Sheet
 3. Completed Attachment B – Background Check Certification
 4. References: No fewer than three (3), preferably from other comparable higher education institutions to which your firm is/has provided snack vending services/equipment/products which are similar in size and scope to that which has been described herein, that demonstrate the Offeror's qualifications.
 5. A written narrative describing the Offeror's approach toward fulfilling the objectives and providing services sought by Mason. In addition, Offeror shall identify the terms of any quality guarantee(s) offered.
 6. A written narrative describing the Offeror's experience and qualifications in providing snack vending services. In addition, Offeror shall include brief biographical information on the management team that would be responsible for servicing this contract (include an organizational chart).
 7. A complete list of proposed products (planogram) to be vended.
 8. A complete list of proposed equipment – vending machines, fountains, coolers, etc.

9. Completed Mason Money Merchant Agreement
10. Provide a specific plan for implementation and transition of services from date of award forward.
11. Provide proposed financial offer/considerations.

C. **IDENTIFICATION OF THE PROPOSAL ENVELOPE:** **Return envelopes are not being provided. It is the responsibility of the Offeror to clearly mark submission envelopes identifying the contents as a response to this Request For Proposal as follows:**

FROM: Name of Offeror _____ Due Date/Time: **May 15, 2019 @ 2:00 PM**
 Street or Box Number _____ RFP Number: **GMU-1503-18.**
 City, State, Zip Code _____ RFP Title: **Beverage Pouring Rights**
 Name of Contract Officer or Buyer: **James Russell, Director.**

The envelope or package should be addressed as directed on Page 1 of the solicitation. If a proposal is mailed, the Offeror takes the risk that the envelope/package, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Proposals may be hand delivered to the location shown on Page 1. No other correspondence or other offer should be placed in the envelope/package.

XIV. EVALUATION AND AWARD CRITERIA:

A. **INITIAL EVALUATION CRITERIA:** Proposals shall be initially evaluated and ranked using the following criteria:

<u>Description</u>	<u>Point Value</u>
1. Quality of proposal including specific plans to perform the services.	40
2. Experience and qualifications including personnel assigned to perform the services.	15
3. References of similar size and scope.	10
4. Projected gross sales, annual pouring rights fee, marketing fund, gratis products contract administration fee, guaranteed commission, commission percentage and price(s) offered.	35

TOTAL POINTS AVAILABLE 100

B. **AWARD:** **Following the initial scoring by the evaluation committee,** at least two or more top ranked offerors may be contacted for oral presentations/demonstrations or advanced directly to the negotiations stage. ***If oral presentations are conducted Mason will then determine, in its sole discretion, which vendors will advance to the negotiations phase.*** Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, Mason shall select the offeror which, in its sole discretion has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should Mason determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that offeror. Mason is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Governing Rules §49.D.*).

XV. CONTRACT ADMINISTRATION: Upon award of the contract, Mason shall designate, in writing, the name of the Contract Administrator who shall work with the contractor in formulating mutually acceptable plans and standards for the operations of this service. The Contract Administrator shall use all powers under the contract to enforce its faithful performance. The Contract Administrator shall determine the amount, quality and acceptability of work and shall decide all other questions in connection with the work. All direction and order from Mason shall be transmitted through the Contract Administrator, or their designee(s) however, the Contract Administrator shall have no authority to approve changes which shall alter the concept or scope of the work or change the basis for compensation to the contractor.

XVI. PAYMENT TERMS / METHOD OF PAYMENT:

A. The contractor shall pay the **annual contract administration fee** due on August 15, with a 3% annual escalation.

- B. The contractor will pay Mason the **minimum annual commission guarantee** in two (2) equal installments due on or before December 10 and May 10. Quarterly commission reports, in an EXCEL Spreadsheet format, are due on or before the 15th day of the month following the last day of the month of each quarter in which the commission was earned. The fiscal year is defined as July 1– June 30. Commission earned above the minimum annual royalty guarantee is due on or before July 15 following the 4th Quarter.
- C. The contractor guarantees that it will pay Mason the **annual pouring rights fee** due April 15.
- D. The contractor will maintain the campus marketing fund, athletic equipment fund and gratis products, and will dispense for Mason as expenses or requests occur. Funds/products to be used by June 30 of each contract year. Any reimbursement submissions must be processed and received within 30 days.
- E. The contractor will make proper sales tax returns and payments to the appropriate entities. Contractor is responsible for all taxes, licenses and fees.
- F. Contractor shall make all payments payable to **George Mason University** in the form of a check and sent to the following address. Repeated failure to make payments on a timely basis may result in the termination of the contract.

George Mason University
3200 Merten Hall
4400 University Drive, MSN 4A1
Fairfax, VA 22030
Attn: David C. Atkins, Director of Licensing, Marketing and Administration

XVII. SOLICITATION TERMS AND CONDITIONS:

- A. GENERAL TERMS AND CONDITIONS – GEORGE MASON UNIVERSITY:
<http://fiscal.gmu.edu/purchasing/do-business-with-mason/view-current-solicitation-opportunities/>
- B. SPECIAL TERMS AND CONDITIONS – GMU-1534-19 (Also see ATTACHMENT B – SAMPLE CONTRACT which contains terms and conditions that will govern any resulting award).
 - 1. BEST AND FINAL OFFER (BAFO): At the conclusion of negotiations, the Offeror(s) may be asked to submit in writing, a best and final offer (BAFO). After the BAFO is submitted, further negotiations may or may not be conducted with the Offeror(s).
 - 2. CANCELLATION OF CONTRACT: Mason reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial Contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
 - 3. COMPLIANCE WITH LAW: (If Applicable): All goods and services provided to George Mason University shall be done so in accordance with any and all local, state and federal laws, regulations and/or requirements. This includes any applicable provisions of FERPA or the "Government Data Collection and Dissemination Practices Act" of the Commonwealth of Virginia.
 - 4. CONFLICT OF INTEREST: By submitting a proposal the contractor warrants that he/she has fully complied with the Virginia Conflict of Interest Act; furthermore certifying that he/she is not currently an employee of the Commonwealth of Virginia.
 - 5. OBLIGATION OF OFFEROR: It is the responsibility of each Offeror to inquire about and clarify any requirements of this solicitation that is not understood. Mason will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries must be in writing and submitted as instructed on page 1 of this solicitation. By submitting a proposal, the Offeror covenants and agrees that they have satisfied themselves, from their own investigation of the conditions to be met, that they fully understand their obligation and that they will not make any claim for, or have right to cancellation or relief from this contract because of any misunderstanding or lack of information.

6. **RFP DEBRIEFING:** In accordance with §49 of the *Governing Rules* Mason is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. However upon request we will provide a scoring summary and the award justification memo from the evaluation committee. Formal debriefings are generally not offered.
7. **SUBCONTRACTS:** **No portion of the work shall be subcontracted without prior written consent of Mason's Purchasing office.** In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish Mason's Purchasing office the names, qualifications, criminal background checks and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

XVIII. RFP SCHEDULE: Subject to change.

- Issue RFP: 12/14/18
- Questions Due 1/22/19 @ 4:00 PM EST
- Responses posted 2/1/19 @ 4:00 PM EST
- Proposals Due to the University: 5/15/19 @ 2:00 PM EST
- Proposals to Committee: 5/17/19
- Evaluations/Scoring: 5/17/19 – 5/30/19
- Scores Due to Purchasing: 5/31/19
- Presentations (if required): 6/11/19 – 6/14/19
- Negotiations: 6/17/19 – 8/21/19
- BAFO: 8/23/19
- Award: 9/6/19
- Anticipated Contract Start Date: 7/1/20

**ATTACHMENT A
VENDOR DATA SHEET
TO BE COMPLETED BY OFFEROR**

1. **QUALIFICATION OF OFFEROR:** The Offeror certifies that they have the capability and capacity in all respects to fully satisfy all of the contractual requirements.

2. **YEARS IN BUSINESS:** Indicate the length of time in business providing this type of service:

Type of Business: _____ Years _____ Months

3. **BUSINESS STATUS:**

A. Type of organization (circle one):

Individual
Sole Proprietor

Partnership
Government

Corporation
Other (explain)

B. Category (circle one):

Manufacturer/Producer
Service Establishment
Other (explain)

Mfg.'s Agent
Distributor

Retailer
Wholesaler

C. Status: (Please check all applicable classifications) If your classification is certified by the Virginia Department of Small Business and Supplier Diversity (SBSD), provide your certification number _____. For certification assistance, please visit <http://www.sbsd.virginia.gov/>. You must be certified with **VIRGINIA SBSD** to qualify.

_____ (MB) MINORITY OWNED: "Minority-owned business" means a business that is at least 51% owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

_____ (WB) WOMAN OWNED: "Women-owned business" means a business that is at least 51% owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

_____ (SB) SMALL BUSINESS: Small business" means a business that is at least 51% independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. One or more of these individual owners shall control both the management and daily business operations of the small business.

_____ LARGE BUSINESS

I certify the accuracy of this information.

Signed: _____

Title: _____

Printed Name: _____

Date: _____



Purchasing Department
4400 University Drive, Mailstop 3C5
Fairfax, VA 22030
Voice: 703.993.2580 | Fax: 703.993.2589
<http://fiscal.gmu.edu/purchasing/>

ATTACHMENT B – SAMPLE CONTRACT

GMU-1503-18

Note: Other documents may be incorporated into this document, either by way of attachment or by reference, but in all cases this contract document shall take precedence over all other documents and will govern the terms and conditions of the contract.

This Contract entered on this ____ day of _____ by _____ hereinafter called “Contractor” (located at _____) and Commonwealth of Virginia, George Mason University hereinafter called “Mason”.

- I. WITNESSETH** that the Contractor and Mason, in consideration of the mutual covenants, promises and agreement herein contained, agree as follows:
- II. SCOPE OF CONTRACT:** The Contractor shall provide consulting services as set forth in the Contract Documents.
- III. PERIOD OF CONTRACT:** As negotiated
- IV. PRICE SCHEDULE:** As negotiated
- V. CONTRACT ADMINISTRATION:** _____ shall serve as Contract Administrator for this Contract and shall use all powers under the Contract to enforce its faithful performance. The Contract Administrators shall determine the amount, quality and acceptability of work and shall decide all other questions in connection with the work. All direction and order from Mason shall be transmitted through the Contract Administrator, however, the Contract Administrator shall have no authority to approve changes which shall alter the concept or scope or change the basis for compensation.
- VI. METHOD OF PAYMENT:** As negotiated
- VII. THE CONTRACT DOCUMENTS SHALL CONSIST OF (In order of precedence):**
 - A. This signed form;
 - B. RFP No. GMU-1534-19, in its entirety (incorporated herein by reference);
 - C. Contractor’s proposal dated XXXXXX (incorporated herein by reference)
- VII. GOVERNING RULES:** This Contract is governed by the provisions of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 4.10 (§ [23-38.88](#) et seq.) of Title 23 of the Code of Virginia, and in particular § [23-38.90](#) of the Restructuring Act, referred to as the “*Governing Rules*” and the *Purchasing Manual for Institutions of Higher Education and their Vendors*. Documents may be viewed at: <https://vascupp.org>
- VIII. CONTRACT PARTICIPATION:** TBD.
- IX. STANDARD TERMS AND CONDITIONS:**
 - A. APPLICABLE LAW AND CHOICE OF FORUM: This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia. All disputes arising under this Contract shall be brought before an appropriate court in the Commonwealth of Virginia.
 - B. ANTI-DISCRIMINATION: By entering into this contract contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §§ 9&10 of the *Governing Rules*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a

religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Governing Rules*, § 36).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- C. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.
- D. ASSIGNMENT: Neither party will assign or otherwise transfer its rights or obligations under this Contract without both parties' prior written consent. Any attempted assignment, transfer, or delegation without such consent is void.
- E. AUDIT: The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- F. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- G. AUTHORIZED SIGNATURES: The signatory for each Party certifies that he or she is an authorized agent to sign on behalf such Party.
- H. BACKGROUND CHECKS: Contractor's employees must have successfully completed a criminal background check prior to the start of their work assignment/service. As stated in [Administrative Policy Number 2221 – Criminal Background Investigations for University Employees](#), the criminal background investigation will normally include a review of the individual's records to include Social Security Number Search, Credit Report (if related to potential job duties), Criminal Records Search (any misdemeanor convictions and/or felony convictions are reported) in all states in which the employee has lived or worked over the past seven years, and the National Sex Offender Registry. In addition, the Global Watch list (maintained by the Office of Foreign Assets Control of The US Department of Treasury) should be reviewed. Signature on this contract confirms your compliance with this requirement.
- I. CANCELLATION OF CONTRACT: Mason reserves the right to cancel and terminate this Contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial Contract period is for more than 12 months, the resulting Contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding

orders issued prior to the effective date of cancellation.

- J. CLAIMS: Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
1. The firm must submit written claim to:
Chief Procurement Officer
George Mason University
4400 University Drive, MSN 3C5
Fairfax, VA 22030
 2. The firm must submit any unresolved claim in writing no later than 60 days after final payment to the Chief Procurement Officer.
 3. Upon receiving the written claim, the Chief Procurement Officer will review the written materials relating to the claim and will mail his or her decision to the firm within 60 days after receipt of the claim.
 4. The firm may appeal the Chief Procurement Officer's decision in accordance with § 55 of the *Governing Rules*.
- K. COLLECTION AND ATTORNEY'S FEES: The Contractor shall pay to Mason any reasonable attorney's fees or collection fees, at the maximum allowable rate permitted under Virginia law, incurred in enforcing this Contract or pursuing and collecting past-due amounts under this Contract.
- L. COMPLIANCE WITH LAW: All goods and services provided to Mason shall be done so in accordance with any and all local, state and federal laws, regulations and/or requirements. This includes any applicable provisions of FERPA or the "Government Data Collection and Dissemination Practices Act" of the Commonwealth of Virginia.
- M. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The Contractor shall ensure that personally identifiable information which may include but is not limited to personal identifiers such as name, address, phone, date of birth, Social Security number, student or personal identification number, non-directory information and any other information protected by state or federal privacy laws will be collected and held confidential, during and following the term of this contract, and will not be divulged without the individual's and Mason's written consent and only in accordance with federal law or the Code of Virginia. The Contractor shall utilize, access, or store personally identifiable information as part of the performance of this contract in a secure environment and immediately notify Mason of any breach or suspected breach in the security of such information. Contractor shall allow Mason to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. If Contractor provides goods and services that require the exchange of personal identifiable information the following Data Security Addendum shall apply and be incorporated into this contract: <http://fiscal.gmu.edu/wp-content/uploads/2017/04/Data-Security-Addendum.pdf>
- N. CONFLICT OF INTEREST: Contractor represents to Mason that its entering into this Contract with Mason and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 *et seq*), the Virginia Ethics in Public Contracting Act (§57 of the *Governing Rules*), the Virginia Governmental Frauds Act (Va. Code 18.2 – 498.1 *et seq*) or any other applicable law or regulation.
- O. DEBARMENT STATUS: As of the effective date, the Contractor certifies that it is not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of services covered by this Contract, nor is the Contractor an agent of any person or entity that is currently so debarred.
- P. ENTIRE CONTRACT: This Contract constitutes the entire understanding of the Parties with respect to the subject matter herein and supersedes all prior oral or written contracts with respect to the subject matter herein. This Contract can be modified or amended only by a writing signed by all of the Parties.

- Q. EXPORT CONTROL: N/A.
- R. FORCE MAJEURE: Mason will not be responsible for any losses resulting from delay or failure in performance resulting from any cause beyond Mason's control, including without limitation: war, strikes or labor disputes, civil disturbances, fires, natural disasters, and acts of God.
- S. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into this contract Contractor certifies that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- T. INDEMNIFICATION: Contractor agrees to indemnify, defend and hold harmless George Mason University the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the contractor/any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered.
- U. INDEPENDENT CONTRACTOR: The Contractor is not an employee of Mason, but is engaged as an independent contractor. The Contractor shall indemnify and hold harmless the Commonwealth of Virginia, Mason, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to the Contractor's performance of this contract. Nothing in this contract shall be construed as authority for the Contractor to make commitments which will bind Mason or to otherwise act on behalf of Mason, except as Mason may expressly authorize in writing.
- V. INFORMATION TECHNOLOGY ACCESS ACT: Computer and network security is of paramount concern at George Mason University. The University wants to ensure that computer/network hardware and software does not compromise the security of IT environment. You agree to use commercially reasonable measures in connection with any offering your company makes to avoid any known threat to the security of the IT environment at George Mason University.

All e-learning and information technology developed, purchased, upgraded or renewed by or for the use of George Mason University shall comply with all applicable University policies, Federal and State laws and regulations including but not limited to Section 508 of the Rehabilitation Act (29 U.S.C. 794d), the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia, as amended, and all other regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by or on behalf of the University. The Contractor shall also comply with the Web Content Accessibility Guidelines (WCAG) 2.0. For more information please visit <http://ati.gmu.edu>, under Policies and Procedures.

- W. INSURANCE: The Contractor shall maintain all insurance necessary with respect to the services provided to Mason. The Contractor further certifies that they will maintain the insurance coverage during the entire term of the Contract and that all insurance is to be placed with insurers with a current reasonable A.M. Best's rating authorized to sell insurance in the Commonwealth of Virginia by the Virginia State Corporation Commission. The Commonwealth of Virginia and Mason shall be named as an additional insured.
1. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage, personal injury and advertising injury, products and completed operations coverage;
 2. Workers Compensation Insurance in an amount not less than that prescribed by statutory limits; and, as applicable;
 3. Commercial Automobile Liability Insurance applicable to bodily injury and property damage, covering owned, non-owned, leased, and hired vehicles in an amount not less than \$1,000,000 per occurrence; and
 4. An umbrella/excess policy in an amount not less than five million dollars (\$5,000,000) to apply over and above Commercial General Liability, Employer's Liability, Workers' Compensation, and Commercial Automobile Liability Insurance.
- X. INTELLECTUAL PROPERTY: Contractor warrants and represents that it will not violate or infringe any

intellectual property right or any other personal or proprietary right and shall indemnify and hold harmless Mason against any claim of infringement of intellectual property rights which may arise under this contract.

- Y. **NON-DISCRIMINATION:** All parties to this Contract agree to not discriminate on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age (except where sex or age is a bona fide occupational qualification, marital status or disability).
- Z. **PUBLICITY:** The Contractor shall not use, in its external advertising, marketing programs or promotional efforts, any data, pictures, trademarks or other representation of Mason except on the specific written authorization in advance by Mason's designated representative.
- AA. **REMEDIES:** If the Contractor breaches this Contract, in addition to any other rights or remedies, Mason may terminate this Contract without prior notice.
- BB. **RENEWAL OF CONTRACT:** This contract may be renewed by the University as negotiated under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the University's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the University elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the "other goods and services" category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
 2. If during any subsequent renewal periods, the University elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the "other goods and services" category of the CPI-U section of the Consumer Price Index of the United States bureau of Labor Statistics for the latest twelve months for which statistics are available.
- CC. **REPORTING OF CRIMES, ACCIDENTS, FIRES AND OTHER EMERGENCIES:** Any Mason Employee, including contracted service providers, who is not a staff member in Counseling and Psychological Services (CAPS) or a pastoral counselor, functioning within the scope of that recognition, is considered a "Campus Security Authority (CSA)." CSAs must promptly report all crimes and other emergencies occurring on or near property owned or controlled by Mason to the Department of Police & Public Safety or local police and fire authorities by dialing 9-1-1. At the request of a victim or survivor, identifying information may be excluded from a report (e.g., names, initials, contact information, etc.). Please visit the following website for more information and training: <http://police.gmu.edu/clery-act-reporting/campus-security-authority-csa/>.
- DD. **SEVERABILITY:** Should any portion of this Contract be declared invalid or unenforceable for any reason, such portion is deemed severable from the Contract and the remainder of this Contract shall remain fully valid and enforceable.
- EE. **SOVEREIGN IMMUNITY:** Nothing in this Contract shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia and of Mason.
- FF. **UNIVERSITY REVIEW/APPROVAL:** All goods, services, products, design, etc. produced by the Contractor for or on behalf of Mason are subject to Mason's review and approval.
- GG. **WAIVER:** The failure of a party to enforce any provision in this Contract shall not be deemed to be a waiver of such right.

Contractor Name Here

By:

Signature

Date

Name: _____

Title _____

George Mason University

By:

Signature

Date

Name: _____

Title: _____