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CITY OF SACRAMENTO

CITY MANAGER'S OFFICE
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July 7, 1981

City Council
Sacramento, California 95814

RE: FLOWER CART CONCESSION ON K STREET MALL

Honorable Members in Session:

SUMMARY

Pursuant to the City Council's request, the attached material has been prepared which calls for bids for a flower cart concession on the K Street Mall.

BACKGROUND INFORMATION

The City Council previously requested that material be prepared which calls for bids for a flower cart concession on the K Street Mall. The attached material includes an invitation to bid, a resolution calling for bids, and a proposed concession contract, including exhibits. It is recommended that the Council approve the attached resolution which calls for bids to be submitted on August 10, 1981.

RECOMMENDATION

It is recommended that the attached resolution be adopted.

Very truly yours,
James P. Jackson
JAMES P. JACKSON
City Attorney

JPJ:KMF
attachment

RECOMMENDATION APPROVED:

Walter J. Slips
City Manager

APPROVED
BY THE CITY COUNCIL

JUL 21 1981

OFFICE OF THE
CITY CLERK

APPROVED
BY THE CITY COUNCIL

JUL 21 1981

INVITATION TO BID FOR FLOWER CART
CONCESSION CONTRACT ON K STREET MALL

OFFICE OF THE
CITY CLERK

1. Offers or bids for the Flower Cart Concession Contract on the K Street Mall shall be submitted in accordance with these specifications.

2. Appendix 1, attached hereto and incorporated herein by reference, sets forth the basic form which the City proposes to use in granting the contract proposed to be entered into between the City and Concessionaire.

3. The City desires to grant a concession contract for a flower cart on the K Street Mall as described in Appendix 1 above in accordance with Chapter 12, Article III of the Sacramento City Code, for the sale of fresh cut flowers.

4. Appendix 1, Section 6, identifies the design, construction, and placement of the flower cart which shall be furnished and operated by the Concessionaire. Offerors or bidders should take into account that concessionaires are required under the contract to furnish at their expense all equipment and fixtures necessary for the operation of the contract.

5. The term of the contract shall be three years commencing with its execution.

6. THE OFFER OR BID SHALL BE SUBMITTED IN LETTER FORM and shall designate the monthly contract fee to be paid to the City of Sacramento for the contract. The offer or bid shall include a complete statement of the prospective bidder's experience in maintaining and operating similar or related concessions or business activities, and proof of financial ability to finance and operate the concession, and

such other information as the bidder deems appropriate. The City Council reserves complete discretion in the award or refusal to award said concession.

7. Offers or bids shall be submitted at the time and in accordance with the resolution set forth in Appendix 2, attached hereto and incorporated herein by reference.

8. Pre-bid conference. Prospective bidders are invited to attend a pre-bid conference which will be held in the office of the Director of Recreation and Parks, 3520 5th Avenue, Sacramento, California 95817, August 3, 1981 at 10:00 A.M. The subject of this conference will be limited to clarifying, if necessary, the terms of the bid documents. Should a bidder find a discrepancy in or omission from the general terms and conditions or invitation to bid or if the bidder should be in doubt as to their meaning, such matters should be presented at this conference in order that that written clarification may be given to all eligible prospective bidders.

9. If the Council deems that the acceptance of any bid is not in the best interests of the City, it may reject all bids and call for new bids or proceed as provided in Section 12.62 of the City Code.

CONCESSION CONTRACT FOR FLOWER
CART ON THE K STREET MALL

Section 1. Award of Contract and Encroachment Area

There is hereby granted by the City of Sacramento to the right and privilege to encroach upon a portion of the K Street Pedestrian Mall for the purpose of operating a flower cart concession in the manner and subject to the terms and conditions hereinafter set forth. This right to encroach is limited to that specific public area and location described in Exhibit 1 attached hereto and incorporated herein, and hereinafter referred to as the "encroachment area."

Section 2. Term.

This concession agreement shall be for a term of three years, commencing with the execution of this agreement, subject to prior termination by the City in the event the City determines in its discretion such to be required by the public convenience and necessity or in the event Concessionaire breaches in any way or manner any of the terms or conditions of this agreement or ceases to operate for any reason. If the Concessionaire shall for any reason hold over beyond such term with the consent, express or implied, of City, such holding over shall be from month-to-month only, subject to the terms and conditions of this contract, but shall not be a renewal hereof, and the consideration to be paid shall be at the rates prevailing under the terms of this contract.

Section 3. Consideration.

Concessionaire shall pay to City as a concession fee the sum of (\$) per month. Concessionaire shall make payment thereof to the City on or before the tenth (10th) day of each month.

Section 4. Compliance with Regulations.

Concessionaire and his agents or employees shall at all times comply with and abide by all pertinent or applicable regulations and ordinances of the City and County of Sacramento, and the laws of the State of California and the United States.

Section 5. Obligations of the Concessionaire.

Concessionaire shall maintain the concession open for business to the general public in accordance with a schedule provided by the Director of Community Services (hereinafter

referred to as Director). Concessionaire shall supply and have ready for sale each and every article authorized for sale by the Director in sufficient quantities to meet the customers' demands therefore.

Concessionaire shall keep the equipment used for the operation of the concession in a high degree of cleanliness at all times, and shall conduct the contract in such a way as to prevent the escape of debris from these activities.

Concessionaire shall assume the full responsibility and expense for disposal of garbage, refuse and rubbish in connection with the activities incident to the concession's operation.

Concessionaire shall secure and provide at his own expense all necessary licenses and permits, and shall promptly pay all taxes and other fees as may be required.

Concessionaire shall promptly comply with written reasonable orders that may be issued from time to time by the Director as to matters concerning the operation of the concession as it may affect the best interests of the public using the mall, including, but not limited to, the merchandise which may be sold, the locations the cart may utilize, the manner and hours of sale and the cleanliness of the area. The concession items shall be those set forth in Exhibit 2 until and unless changed pursuant to written authorization of the Director.

Concessionaire shall furnish at his own expense all supplies, equipment and fixtures necessary for the operation of the concession.

Section 6. Design, Construction and Placement of the Flower Cart.

Concessionaire shall furnish and operate a flower cart in the encroachment area in accordance with the schematic design drawing to be submitted to and approved by the City.

The design, construction and finish of said cart is subject to the prior written approval of the Director of Community Services, as shall be the content, placement, design, and size of all signs, displays and any and all other items placed or caused to be placed in the encroachment area by Concessionaire.

The methods, materials, dimension and time schedule of construction shall be subject to the prior written approval of the Director and shall be subject to all applicable specifications, licenses and permits as provided for in the Codes of the City and County of Sacramento.

The flower cart may have either two or four wheels and must be moveable by one person. It may not have a combustion engine.

It shall not exceed seven feet in length or five feet in width. The cart is not to be left unattended on the K Street Mall.

Section 7. Conditions of Premises.

Concessionaire shall, at his expense, repair any damage caused to the mall and appurtenances by the negligent acts or omissions of the Concessionaire, his employees, agents or contractors.

Section 8. Cancellation for Failure to Perform.

The contract shall be subject to termination by the City in the event Concessionaire shall fail to perform and comply with all of the terms and conditions of the contract. In such event the City may immediately, or at any time after such default, terminate the contract. Such election by the City to terminate the contract shall not prejudice any rights or claims the City may have for sums remaining due it under the contract, or pursuing such other remedies as may be available to the City by law, all remedies of the City to be cumulative and not alternative.

Concessionaire shall have the option of terminating this contract on thirty (30) days written notice.

Section 9. Assignment and Subleasing.

Concessionaire shall have no right, authority or power to sell, mortgage, assign or sublease any interest in the contract nor any right, power or authority to allow or permit any other person or party to have any interest in or use any part of the premises utilized for the operation of the concessions without the prior express written consent of the City, it being recognized that the purpose and intent of the contract being to grant the privilege solely to Concessionaire and neither directly nor indirectly to any other person or party.

Section 10. A. Non-Discrimination.

The Concessionaire shall not discriminate in the employment of persons because of race, color, national origin or ancestry, or religion of such person.

B. Affirmative Action.

Concessionaire shall make a concerted effort to employ a work force at the concessions which is representative of the minority population of the City of Sacramento.

Concessionaire shall meet with the Director, or his designated representatives, within fifteen (15) days after the award of the contract and shall, within ninety (90) days after the said award, complete preparation of an affirmative action plan to achieve a fully integrated work force, said plan to be acceptable to the Director. City hereby furnishes Concessionaire with estimated data from the 1975 U.S. Census relating to percentages of minority population within the City of Sacramento. (Exhibit 3). The goals established in the affirmative action plan of Concessionaire shall not be construed as "quotas," but are goals which Concessionaire will make a good faith effort to achieve, and which desirably might be exceeded. In the development of said plan, the Concessionaire and Director shall be guided by the U.S. Government standards and policies referred to in Presidential Executive Order, Order No. 11246, adopted by the Office of Federal Contract Compliance and set forth in the Federal Register, Volume 35, page 2586, February 5, 1970.

City may terminate the contract for failure by the Concessionaire to demonstrate, without good cause as determined by the City Council, compliance with or substantial progress toward the goals set forth in Concessionaire's approved affirmative action plan. Prior to any such termination City shall give Concessionaire a notice of non-compliance and a sixty (60) day period thereafter within which to make progress, satisfactory to the City Council, toward compliance with the approved affirmative action plan.

Section 11. Indemnity.

Concessionaire shall defend, indemnify and save harmless the City, its officers, employees, and agents and the Redevelopment Agency of the City of Sacramento, its officers, agents and employees against and from any and all claims, suits, actions or causes of action brought for, or on account of, any injuries or damages received or sustained by any person or persons, by or from Concessionaire, his employees, agents or independent contractors, resulting directly or indirectly, totally or partially, from any act or omission to act on the part of Concessionaire, his employees, agents or independent contractors.

Section 12. Insurance.

Concessionaire, at his sole expense and concurrent with the execution of this contract, shall obtain and maintain a liability insurance policy or policies, issued by an admitted insurer or insurers as defined by the California Insurance Code, providing to the City, its officers, employees and agents, as named insureds broad form general liability coverage to include bodily injury, property damage, and products liability in the amount of \$50,000 single limit per occurrence for the term of this contract and any renewal hereof. By the terms of said insurance policy or policies such insurance shall be deemed primary insurance.

Concessionaire shall provide City with a copy of said policy or policies within fifteen (15) days of the execution of this contract and prior to engaging in any concession set forth in this contract.

Concessionaire shall at all times carry workers' compensation insurance on all persons working for him in connection with the activities incident to the contract.

Section 13. Performance Bonds.

Concessionaire shall obtain upon the effective date of this contract, and continue in full force and effect during the term thereof, a cash deposit or bond issued by a corporation or corporations, in form satisfactory to the City, in an aggregate amount of not less than \$300.00 which cash or bond shall guarantee and be conditioned upon the faithful performance of the contract by Concessionaire and his agents, contractors, and employees, and shall guarantee full and complete reimbursement to the City in the event of criminal or tortious appropriation by Concessionaire, or any of his agents, contractors, or employees, of monies or property for which he is accountable to the City.

Section 14. Notices.

All notices and orders that may be given under this contract may be served by mail or in person to Concessionaire's residence at _____ or to his last known place of residence or business.

Dated: _____

CITY OF SACRAMENTO, a
municipal corporation

By _____
MANAGER

ATTEST:

CITY CLERK

CONCESSIONAIRE:

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT 1

The encroachment area shall be those areas on the K Street Mall between the east side of 3rd Street and the west side of 13th Street, and on 11th Street between the south side of the projection of the alley between 11-12, J & K Streets and the northerly projection of the alley 11-12, K-L Streets, excepting those areas provided as "access routes" for emergency vehicles and Sacramento Regional Transit District vehicles.

EXHIBIT 2

Items Authorized for Sale

Fresh Cut Flowers

EXHIBIT 3

CITY OF SACRAMENTO - RACIAL COMPOSITION

1975 Census-Estimated

White.	183,749.	70.47%
Black.	30,083.	11.54%
Hispanic	22,508.	8.63%
Asian	15,693.	6.02%
Filipino	1,722.66%
Native American.	1,473.56%
Others	5,538.	2.12%
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	260,766	100.00%

81-537

APPENDIX 2

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

RESOLUTION CALLING FOR SEALED
OFFERS OR BIDS RELATING TO THE
FLOWER CART CONCESSION ON THE
K STREET MALL

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. The Sacramento City Council hereby invites and calls for sealed offers or bids for the flower cart concession on the K Street Mall in accordance with the specifications entitled "Invitation to Bid for Flower Cart on the K Street Mall." Copies of the specifications are available in the office of the City Clerk, Room 203, City Hall, 915 I Street, Sacramento, California 95814. Sealed offers or bids shall be submitted to the City Clerk No later than 10:00 A.M., on August 10, 1981.

2. The offers or bids will be opened before the City Clerk at the City Hall, 915 I Street, Sacramento, California, after 10:00 A.M. on August 10, 1981.

3. The City Clerk shall publish this Resolution in the official newspaper of the City once a week for two consecutive weeks.

MAYOR

ATTEST:

CITY CLERK

APPROVED
BY THE CITY COUNCIL

JUL 21 1981

OFFICE OF THE
CITY CLERK