



TOWN OF OCEAN CITY
301 N. BALTIMORE AVENUE
OCEAN CITY, MARYLAND 21842

BID PACKET

2023 - 2026 VEHICLE VENDING FRANCHISE

SECTION 1: BID NOTICE

SECTION 2: BID FORM

SECTION 3: SAMPLE CONTRACT

SECTION 4: CHAPTER 39, ARTICLE VII, VEHICLE VENDING

SECTION 5: CRITERIA AND EVALUATION METHOD



Bid Notice Vehicle Vending Franchise

Notice is hereby given, pursuant to Chapter 39, Article VII, entitled *Vehicle Vending*, Code of the Town of Ocean City, Maryland, the Mayor and City Council will accept sealed bids for a vehicle vending franchise operator. This franchise allows vending prepared, pre-packaged food from a motorized vehicle to operate on certain public ways of Ocean City. Bidders are subject to all conditions, terms and provisions set forth in Chapter 39 of the City Code, copies of which may be obtained at the City Clerk's Office. Bids shall be submitted in accordance with the conditions and provisions herein.

1. The franchise will be for a term of four (4) years. The 4-year term includes the summer of 2023, 2024, 2025 and 2026 with a contract expiration date of December 31, 2026.
2. There shall be only one franchise and franchise operator. Such franchise and operator are limited to a maximum of six (6) trucks or vehicles, which must be motorized and must meet all standards of the State Health Department.
3. Bids must be submitted to the City Clerk's Office **no later than 4:30 p.m. on Monday, February 13**. Bids shall be opened at the 1:00 p.m. Work Session on Tuesday, February 14. Bids must be submitted on a bid form provided in the bid packet, **placed in a sealed envelope, and marked "Vehicle Vending Franchise Bid."** Bid packets are available on the Procurement and City Clerk webpage at oceancitymd.gov or upon request by emailing the City Clerk at dchavis@oceancitymd.gov.
4. The bid shall be accompanied by a cashier's or certified check in the amount of eighty percent (80%) of the first year's bid amount.
5. The bid shall be awarded to the highest bidder, except that, should the Council determine there are irregularities in such bidding, the Council may reject such bids as it deems appropriate and postpone the awarding of bids if it so desires. In the event of tie bids, the first in time received shall be deemed the successful bid. Credit, bank and personal references will be verified. Industry experience may also be taken into consideration.
6. For the protection of the public and the Mayor and City Council, the successful bidder must obtain, at the operator's own expense, comprehensive automobile liability insurance coverage in at least the amount of \$1,000,000.00 per person and \$2,000,000.00 per occurrence for bodily injury and \$200,000.00 for property damage and comprehensive general liability insurance, with a combined single limit of \$2,000,000.00 for both bodily injury and property damage, which shall include product liability insurance in the amount of at least \$1,000,000.00. Such insurance coverage shall name the Mayor and City Council as additional insured, and a certificate of insurance evidencing such coverage shall be furnished to the Mayor and City Council by the operator and be approved by the City Clerk before the operator engages in the selling of food items from any public way.

Submit bid to: **VEHICLE VENDING FRANCHISE BID**
Town of Ocean City
City Hall
Attn: City Clerk
301 N. Baltimore Avenue,
Ocean City, Maryland 21842

Questions can be directed to City Clerk Diana Chavis at 410-289-8842.

2023 Vehicle Vending Franchise Bid Form

BID

\$ _____ per year, for a total of \$ _____ for the four-year term of the franchise.

FINANCIAL HISTORY

The source of my funds for the initial franchise payment tended herewith is as follows:

CREDIT REFERENCE #1

FULL NAME	
ADDRESS	
PHONE NUMBER	
EMAIL ADDRESS	

CREDIT REFERENCE #2

FULL NAME	
ADDRESS	
PHONE NUMBER	
EMAIL ADDRESS	

BANK REFERENCE

FULL NAME	
ADDRESS	
PHONE NUMBER	
EMAIL ADDRESS	

AFFIDAVIT

I do hereby agree to and authorize the Mayor and City Council of Ocean City to make inquiry of my personal background, financial and credit worthiness; and my credit report; by my signature hereto, I do hereby authorize and empower those listed above as credit references and bank reference to release unto Mayor and City Council of Ocean City any information pertaining to my personal background, financial and credit worthiness and for the Mayor and City Council to obtain a copy of my credit report; and,

I do hereby certify that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other bidder or competitor; and

I do hereby certify that there are no other persons financially interested, direct or indirect, in this BID, except:

Name

Signature

Name

Signature

I do hereby solemnly declare (or I hereby affirm) under penalties of perjury that the information and statement above are true and correct to my knowledge and belief.

Print Name

Signature

Address

Telephone



2023-2026 VEHICLE VENDING FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT made this ____ day of _____, 2023, by and between the Mayor and City Council of Ocean City, a Maryland Municipal Corporation, hereinafter called and referred to as "City," and _____ hereinafter called and referred to as "Operator".

WITNESSED: That for and in consideration of the premises, and of the rights herein this agreement granted, and of the sums of money herein this agreement stated, the "City" and the "Operator" do hereby covenant and agree as follows:

THAT the "City" agrees:

1. That the operator shall have the right to operate a vehicle vending business subject to the terms and conditions hereinafter stated, on the public streets for a term commencing with the date hereof and terminating on **December 31, 2026**.
2. That so long as the "Operator" performs as herein stated and pays the sums hereinafter in this agreement specified when said sums are due and conducts his business in accordance with the terms of this Franchise Agreement and in accordance with the provisions of Chapter 39, Article VII, of the Code of the Town of Ocean City (said Chapter 39 hereby being incorporated by reference), the "City" will not grant the right to operate a Vehicle Vending Franchise on the public streets to another operator.
3. That the "City" acknowledges receipt of the sum of \$_____ from the "Operator," which sum represents 80% of the first annual Franchise fee.

THAT the "Operator" agrees:

1. To pay the annual bid price as follows: 80% of the first annual fee being heretofore paid and the remaining 20% to be paid on or before June 30, 2023. Thereafter, for the remaining years of the term of this agreement, the annual fee will be paid by paying to the "City" 80% of said annual fee by January 1st of the year prior to the next summer season, and the remaining 20% on or before June 30th. The "Operator" agrees to pay the **annual franchise fee of \$_____** at the times aforesaid and to pay **the total sum of \$_____** in installments as aforesaid, for the four (4) year term of this agreement.
2. To comply with all the provisions and conditions of Chapter 39, Article VII of the Code of the Town of Ocean City (as from time to time amended by Ordinance).
3. The "Operator," by entering into this agreement, hereby acknowledges that he has knowledge of the aforesaid Chapter 39, Article VII and hereby expressly waives any and all rights or defenses he might now have or hereafter acquire by reason of the "Operator" not having read or understood the aforesaid Chapter 39, Article VII.
4. To protect and save harmless the "City" from all damage and loss from or arising out of or by reason of the negligence of the "Operator" his agents or employees, by providing the insurance required under Chapter 39, Article VII.
5. That the "Operator" shall conduct the business of vehicle vending and shall conduct no other business under the rights granted by this franchise agreement.
6. That the "Operator" shall permit no more than six (6) vehicles to operate on the public streets at any one time.
7. That no alcoholic beverages will be consumed or kept, by itself or its agents or employees on the vending vehicles.
8. To comply with all Town, County, State or Federal laws and regulations.
9. That the terms and provisions of any other franchise agreement and negotiations on the price or payments or negotiations in reference to the default of provisions of any other agreement shall have no effect on this Franchise Agreement

ATTEST:

Diana L. Chavis, CMC, City Clerk

Terence McGean, P.E., City Manager

WITNESS:

"OPERATOR"

ARTICLE VII. - VEHICLE VENDING

Sec. 39-501. - Title.

This article shall be known as the "Vehicle Vending Franchise Ordinance."

(Code 1972, § 100-1; Code 1999, § 39-501)

Sec. 39-502. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Annual bid price means the amount of the bid divided by the number of years of the term.

Franchise means the exclusive and sole right to operate a motor vehicle type prepared-food vending business on and from public streets.

Operator means the owner of the franchise.

Prepared food means pre-packaged ice cream, candy, non-alcoholic beverages purchased from licensed processors who prepare food in compliance with FDA approved food preservation practices and sold in hermetically-sealed packages, and frozen treats, subject to any agency rules and regulations.

Reference means credit and bank references, as required by this article. The reference reports are hereby declared to be privileged and confidential, and not subject to public inspection pursuant to Ann. Code of Md., General Provisions article, § 4-301(a)(1) and Ann. Code of Md., General Provisions article, § 4-335(3).

System means the vehicle vending franchise system.

(Code 1972, § 100-2; Code 1999, § 39-502; Ord. No. 2003-4, 2-3-2003; Ord. No. 2015-06, 2-19-2015; Ord. No. 2015-07, 3-16-2015)

Sec. 39-503. - Violations and penalties.

Any person violating any of the conditions, terms or provisions of this article or committing any act herein declared to be prohibited shall, on conviction thereof, be deemed guilty of a municipal infraction subject to the provisions of section 1-8.

(Code 1972, § 100-6; Code 1999, § 39-503; Ord. No. 1996-23, 10-21-1996)

Sec. 39-504. - System established; franchise conditions; award of franchise.

There is hereby established and created a vehicle vending franchise and vehicle vending franchise system of Ocean City. Such system and franchise is established as follows:

- (1) There shall be only one franchise and franchise operator. Such franchise and operator are limited to a maximum of six trucks or vehicles which must be motorized and must meet all standards of the state health department.
- (2) The franchise operator shall be permitted to vend prepared food items at all times from all public ways except the following:
 - a. Vending shall be prohibited on Baltimore and Philadelphia Avenues, the Coastal Highway, east of Baltimore Avenue from 27th Street south, and Atlantic Avenue (boardwalk).
 - b. Vending shall be prohibited from 10:00 p.m. to 10:00 a.m. the following day.
 - c. Vending shall be prohibited at the convention center and at Northside Park.
- (3) The operator shall be permitted to vend, at retail, prepared food and beverage items, excluding alcoholic beverages. The

operator shall not be permitted to vend non-food items.

(4) The franchise shall not be assigned without the prior written permission of the Mayor and City Council of Ocean City.

(5) Bidding process.

a. The bidding process shall be by sealed bid. Each bid shall be accompanied by a cashier's or certified check in the amount of 80 percent of the first year's annual bid price. All bids shall be presented to the Mayor and City Council of Ocean City by 1:00 p.m. on the first Tuesday work session in February of each bid year. Bids shall be opened at the first Tuesday work session in February and shall be awarded to the highest bidder, except that, should the Council determine that there are irregularities in such bidding, the Council may reject such bids as it deems appropriate and postpone the awarding of bids if it so desires. In the event of tie bids, the first in time received shall be deemed the successful bid.

b. Each sealed bid shall be presented in the form and the successful bidder at a public auction shall present the form, as follows:

1. \$____ per year, for a total of \$____ for the four-year term of the franchise.

2. The source of my funds for the initial franchise payment tendered herewith is as follows:

i. Credit references: (applicant shall list at least two with full names, addresses, telephone number and contact person).

ii. Bank reference: (applicant shall list at least one with full name, address, telephone number and contact person).

3. I do hereby agree to and authorize Mayor and City Council of Ocean City to make inquiry of my personal background, financial, credit worthiness and my credit report; and by my signature hereto. I do hereby authorize and empower those listed as credit references and bank references to release to the Mayor and City Council of Ocean City any information pertaining to my personal background, financial and credit worthiness, and for the Mayor and City Council of Ocean City to obtain a copy of my credit report.

4. I do hereby certify that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other bidder or with any competitor.

5. I do hereby certify that there are not other persons financially interested, direct or indirect, in this BID, except as fully disclosed and permitted by this chapter of the Code of Ocean City. (All persons must sign subsection (7) of this section.)

6. I do hereby solemnly declare (or I hereby affirm) under penalties of perjury that the information and statement above made are true and correct to my knowledge and belief, and by affixing my signature hereto, I do personally guarantee all the terms and conditions of the franchise.

7.

" _____ (Name-hand written)	_____ (signature)"
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(6) The term of the franchise shall be four years.

(7) The payment of the franchise fees shall be as follows: The remaining 20 percent of the first year's franchise fee shall be paid by June 30. Thereafter, in the subsequent years of the franchise term, 80 percent of the annual franchise fee shall be paid on or before January 1, with the remaining 20 percent of the annual franchise fee being paid on or before June 30 of each year.

(8) The franchise operator shall be permitted to play amplified music at a level not to exceed 65 dB(A).

(9) Each bid and each franchisee shall deliver to the clerk, at the time of submittal of the bid and each year thereafter, by no

later than January 1, an affidavit in the form as follows:

I do hereby solemnly declare, or affirm, under penalty of perjury, that all federal, state, county and municipal taxes, for years prior to and through the current tax reporting period, or due date, have been paid.

" _____ (Name-hand written)	_____ (signature)"
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(Code 1972, § 100-3; Code 1999, § 39-504; Ord. No. 1994-28, 1-3-1995; Ord. No. 1996-23, 10-21-1996; Ord. No. 1999-2, 2-23-1999; Ord. No. 2003-4, 2-3-2003; Ord. No. 2006-21, 8-21-2006; Ord. No. 2014-6, 4-7-2014)

Sec. 39-505. - Insurance.

For the protection of the public and the Mayor and City Council of Ocean City, the operator must obtain, at the operator's own expense, comprehensive automobile liability insurance coverage in at least the amount of \$1,000,000.00 per person and \$2,000,000.00 per occurrence for bodily injury and \$200,000.00 for property damage and comprehensive general liability insurance, with a combined single limit of \$2,000,000.00 for both bodily injury and property damage, which shall include product liability insurance in the amount of at least \$1,000,000.00. Such insurance coverage shall name the Mayor and City Council of Ocean City as additional insured, and a certificate of insurance evidencing such coverage shall be furnished the Mayor and City Council of Ocean City by the operator and be approved by the city clerk of Ocean City before the operator engages in the selling of food items from any public ways.

(Code 1972, § 100-3.1; Code 1999, § 39-505; Ord. No. 1996-23, 10-21-1996)

Sec. 39-506. - Termination of franchise; revocation of franchise.

- (a) The franchise shall terminate at the expiration of the four-year term.
- (b) The franchise shall immediately be revoked upon the nonpayment of any fee when that fee is due.
- (c) If the operator fails to keep every condition, term or provision of this article, the franchise may be revoked by the Mayor and City Council of Ocean City.

(Code 1972, § 100-4; Code 1999, § 39-506)

Sec. 39-507. - Prohibited acts.

Each of the acts described in this section is prohibited:

- (1) For anyone other than the franchise operator to vend prepared food items from public property or public ways within the corporate limits of Ocean City. This subsection shall not be construed to include the convention center property or Northside Park.
- (2) For the franchise operator or any of their employees to vend during the hours of 10:00 p.m. to 10:00 a.m. of the following day or to vend from Coastal Highway, Baltimore Avenue, Philadelphia Avenue, Atlantic Avenue (beach and boardwalk) or east of Baltimore Avenue from 27th Street south to the Inlet.
- (3) For the franchise operator to utilize more than six vehicles to vend the prepared food products.
- (4) For the franchise operator to play music, whether amplified or not, at a level in excess of 65 dB(A).

(Code 1972, § 100-5; Code 1999, § 39-507; Ord. No. 1996-23, 10-21-1996; Ord. No. 1999-2, 2-23-1999; Ord. No. 2013-2, 3-4-2013)

Secs. 39-508—39-600. - Reserved.

EVALUATION AND SELECTION PROCESS

1. EVALUATION

1.1. All Vendors are advised that in the event of a receipt of adequate number of Proposal Documents which, in the opinion of the Town, require no clarification and/or supplementary information, such Proposal Documents may be evaluated without discussion. Hence, Proposal Documents should be initially submitted on the most complete and favorable terms which Vendors are capable of offering the Town. Proposal Documents will be evaluated using the following criteria:

<u>Weighting Factor</u>	<u>Criterion</u>
50%	Annual Bid Amount
20%	Financial Capability and Company Credit Worthiness
15%	Customer Service and Quality of Product
15%	Condition of Fleet and Equipment

1.2. Each Vendor will be rated for each criterion on a scale of zero to four as described below.

Does Not Meet Requirements	0
Barely Meets Requirements	1
Meets Requirements	2
Exceeds Requirements	3

1.2.1. A Vendor's final grade will be the sum of each criterion's rating multiplied by the weighting factor listed above.