

**County of Milwaukee
Interoffice Communication**

Date: May 15, 2013

To: Supervisor Willie Johnson, Jr., Co-Chairman, Finance, Personnel & Audit Committee
Supervisor David Cullen, Co-Chairman, Finance, Personnel & Audit Committee
Supervisor Michael Mayo, Chairman, Transportation, Public Works, & Transit

From: Josh Fudge, Interim Fiscal and Budget Administrator

Subject: Due Diligence Report for a Parking Lot Operations Lease Agreement with the Interstate Parking Company, LLC for the Rental, Maintenance, Improvement, and Management of the Milwaukee County's (County) parking lot located at 601 West State Street (Milwaukee, Wisconsin).

Request

The Department of Administrative Services–Facilities Management Division (Facilities Management) requests approval enter into a Parking Lot Operations Lease Agreement (agreement) with the Interstate Parking Company, LLC (Interstate) for the use, maintenance, improvement, and management of the County-owned parking lot located at 601 West State Street, Milwaukee, Wisconsin to the Interstate Parking Company, LLC (Interstate) to allow for the rental, maintenance, improvement, and management of parking lot (lot).

Background

Currently, Facilities Management operates and maintains the lot. Net revenue generated from County operations of the lot is approximately \$292,000 annually.¹ Facilities Management is seeking a 3-year agreement (with two, twelve-month extensions) with Interstate to rent, maintain, improve, and manage the lot. Over the initial 3-year term, Interstate will pay the County a total base-rent payment of \$900,000, with an additional \$610,000 if the two extensions are exercised. Should Interstate generate more than \$350,000 in annual gross revenue from lot operations, it will pay the County an additional 10% in any amount in excess of \$350,000 in gross revenue.² As an example, if Interstate's gross revenue is \$370,000 during year 1 of the initial term, the County would receive its base payment plus an additional \$2,000 payment (i.e. Gross Revenue of \$370,000 LESS \$350,000 = \$20,000 X 10% = \$2,000 additional payment to County).

Additionally, Interstate shall install and make various improvements to the lot including lighting, new pay stations, signage, and parking surface repairs.

¹ Net revenue is based on a 3-year actual average of the actual revenues less actual expenditures generated from the County's operation of the lot from 2010-2012. See the table on page 3 for actual net revenue for the years 2010-2012.

² The term GROSS REVENUE is defined as the LESSEE's (Interstate) total revenue collections from the parking lot under the agreement, less related credit card processing fees and sales tax.

Review & Analysis

The Department of Administration - Fiscal Affairs (DAS), Corporation Counsel, and Risk Management have reviewed the draft proposal from Interstate.³ The following narrative highlights the major terms of the agreement.

Request for Proposal #938001 (RFP) was released on January 25, 2013 and was posted on the DAS-Procurement website, Milwaukee County Business Opportunity website, released to all appropriate Vendors via E-Notify, and sent to major parking lot vendors within the Milwaukee County area. In early February, five vendors went on site visits and Questions/Answers correspondence between DAS-Procurement and the vendors occurred. As a result, of the five vendors, one (Interstate) put forth a proposal that met the RFP payment threshold (i.e. \$3000,000) to the County. An evaluation panel was convened in order to review Interstate's proposal. Although only one proposal was submitted, the panel still performed an independent and individual review. Evaluation panel technical and costing scores were compiled and the vendor was determined to have met the requirements of the RFP.

The initial term of the proposed agreement is for three (3) years with two (2) additional twelve (12) month extensions. The extensions must be mutually agreeable to both parties. The County will receive a minimum of \$300,000 annually for the first three years and \$305,000 in each of the extension years. Should Interstate's annual gross revenue be more than \$350,000, the County will be paid an additional 10% in any amount in excess of \$350,000 in gross revenue.

Per the initial terms of the proposed agreement, Interstate will make various improvements to the parking lot, at its own expense. Improvements to be made during the initial term include canopies, signage, surface parking pavement crack-sealing, lighting and pedestal-mounted pay station kiosks. Any such improvements and installations require 1.) written approval by the County prior to implementation; 2.) design and construction approvals from DAS-Facilities Management

Additionally, Interstate is required to fill potholes, crack-seal, and sealcoat the parking lot within 270 days after inception of the agreement. Maintenance of the parking lot will be provided by Interstate, at its own expense, and includes pavement maintenance (filling potholes, crack-sealing, etc.), mow abutting grassed areas, snow and ice-control of the lot and abutting sidewalks, and repair and maintain equipment within the lot.

Upon expiration of the initial term of the agreement, the County will acquire, free and clear, title to all alterations or improvements constructed upon the lot by Interstate. Upon early termination (due to a variety of reasons including default) of the agreement, the County will acquire title to all alterations or improvements constructed upon the lot

³ Community Business Development Partners review was not required as no county (or federal) money is being spent on the project. In light of this, the provisions set forth in Chapter 42 do not apply.

by Interstate, with the County to reimburse Interstate for the non-depreciated costs of installed equipment.⁵

Per the terms of the agreement, Interstate is to establish reasonable daily and special event parking rates. Although not explicitly stated in the agreement, Interstate does not anticipate raising the daily and special event parking rates from its proposed rates over the term of the agreement based on existing market conditions (see Exhibit 1 for parking rates). Existing monthly parking customers will be “grandfathered” in at their current rate (\$80/month) for a period of twelve months from the inception of the agreement. Beginning in year two of the agreement, monthly parking customers will pay a rate of \$90/month. Those that become monthly customers after the inception date will pay the rate as established by Interstate.

Recommendation

The net revenue generated at the parking lot over the past three years has declined significantly. According to DAS-Facilities Management staff, this is due partly to equipment failure of the payment kiosk.

Year	Net Revenue
2010	\$ 335,356
2011	\$ 276,296
2012	\$ 264,041

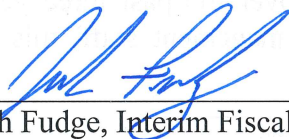
As a specific term of the agreement, Interstate will be installing new payment kiosks as well as making other improvements and equipment upgrades to the parking lot area that would otherwise be difficult for DAS-Facilities Management to absorb within its operating budget.

The County will receive parking lot upgrades as well have a guaranteed revenue stream of at least \$300,000/annually for the first three years, and \$305,000/annually for the next two years (should the County and Interstate exercise both 12-month options). If at the end of the initial 3-year term, the County chooses not to exercise the options, the County retains ownership of the payment kiosks (as well as other Interstate improvements and equipment upgrades made to the lot).

Throughout the initial term of the agreement, DAS-Facilities Management will review the actual revenue generated by Interstate. Upon expiration of the 3-year agreement, the County will have documented financial information reflecting the improved parking lot and operations. Based upon this information, the County can then make a decision as to whether or not is should resume operations of the parking lot, option the extension(s) with Interstate, or initiate another request for proposals for vendor operation of the lot.

DAS recommends approval of the proposed agreement.

⁵ Depreciation is based on a 3-year straight-line depreciation schedule for equipment purchased and installed in Exhibit C of the agreement. The straight-line depreciation is based on actual costs and is not to exceed \$70,000 (even if Interstate pays more than \$70,000 for such equipment).



Josh Fudge, Interim Fiscal and Budget Administrator

cc: Chris Abele, County Executive
Supervisor Marina Dimitrijevic, Chair, County Board of Supervisors
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board of Supervisors
Don Tyler, Director, Department of Administrative Services
Martin Weddle, Research Analyst, County Board
Stephen Cady, Fiscal and Budget Analyst, County Board
Patrick Lee, Director, Department of Administrative Services - Procurement
Stephanie Gulizia, Contract Administrator, Department of Administrative Services –
Procurement

Exhibit 1

Existing (County) and Proposed (Interstate) Parking Rates

	County Operated	Interstate Proposal
Rate Type	Current Rate	Proposed Rate
Super Early Bird - In by 7:30am	\$4.00	\$3.00
Early Bird - In by 9:00am	\$4.00	\$4.00
Late Bird - In by 10:00am	\$4.00	\$5.00
Hourly Weekday	NA	\$4.00
Weekday All Day Max	\$4.00	\$12.00
Weekday Evenings after 4pm (Non Event)	\$10.00	\$3.00
Weekend All Day (Non Event)	\$10.00	\$5.00
Weekend Sat/Sun Pass with In/Out (Non Event)	\$10.00	\$5.00
Event Rates	\$10.00	\$5.00 - \$30.00
Monthly Parking (55 contracts x 12 months)	\$80.00	\$80.00

Exhibit 2

Below is a comparison of the estimated net revenue generated from the County’s continued operations of the parking lot and Interstate’s operation of the parking lot (and payment to the County):

6th and State Parking Lot Operations Comparison

	Proposed Interstate Payment to County:	County Operated (net revenue)			TOTAL Payment from Interstate OVR/(UNDR) TOTAL County Operated Lot Net Revenue		
		Scenario (a)	Scenario (b)	Scenario (c)	Scenario (a)	Scenario (b)	Scenario (c)
2013-2014	\$300,000	\$292,000	\$270,000	\$264,000	\$8,000	\$30,000	\$36,000
2014-2015	\$300,000	\$292,000	\$270,000	\$264,000	\$8,000	\$30,000	\$36,000
2015-2016	\$300,000	\$292,000	\$270,000	\$264,000	\$8,000	\$30,000	\$36,000
3-YR TOTAL	\$900,000	\$876,000	\$810,000	\$792,000	\$24,000	\$90,000	\$108,000
3-YR AVG	\$300,000	\$292,000	\$270,000	\$264,000			
2016-2017	\$305,000	\$292,000	\$270,000	\$264,000	\$13,000	\$35,000	\$41,000
2017-2018	\$305,000	\$292,000	\$270,000	\$264,000	\$13,000	\$35,000	\$41,000
5-YR Total	\$1,510,000	\$1,460,000	\$1,350,000	\$1,320,000	\$50,000	\$160,000	\$190,000
5-YR AVG	\$302,000	\$292,000	\$270,000	\$264,000			

(a) Assumes 3-YR AVG Net Revenue based on 2010-2012 revenue and expenditure actuals from County operations.

(b) Assumes 2-YR AVG Net Revenue based on 2011-2012 revenue and expenditure actuals from County operations.

(c) Assumes 2012 Actual Net Revenue based 2012 revenue and expenditure actuals from County operations.

Due Diligence Milwaukee County Ordinance Chapter 32.88

	<u>Applicable Requirements of Milwaukee County Ordinance Chapter 32.88</u>	<u>Information Provided?</u>		<u>Description</u>
		<u>Yes</u>	<u>No</u>	
1)	Letter of full disclosure and cooperation.	X		Letter provided by Vendor.
2)	Cash flow projections for the venture.	X		Parking Lot Cash Flow projections provided by Vendor and appear to be reasonable. Required lot improvements costs (estimated at \$70,000) are included in the Vendor cash flow projections.
3)	County Operating budget impact.	X		See #20 on this sheet. Also see Exhibit 2 on page 6 of the attached due diligence report.
4)	Debt management responsibilities, schedules and procedures.	X		Vendor responsible for the maintenance of parking lot as well as the costs related to the lot improvements outlined in the agreement.
5)	Legal liability.	X		Legal Counsel for Vendor provided letter stating there are no outstanding legal issues.
6)	Financial reporting systems and controls.	X		Vendor financial controls are based on Generally Accepted Accounting Principles (GAAP) as administered by an on staff Controller. Quarterly financial reports are reviewed by CPAs from Zilber LTD. Annual tax preparation and returns are performed by CPAs from Zilber LTD.
7)	Right-to-audit provisions.	X		Proposed Agreement includes MCGO 56.30(6)(e) Right to Audit provisions.
8)	Project feasibility studies and market analysis.	X		Vendor performed internal feasibility and market survey and believe operations, lot maintenance, lot improvements, and annual rent payment to the County are feasible. Vendor operates 16 parking lots and structures in Milwaukee, primarily in the downtown area. Public lots and structures leased and operated by the vendor include 1 with the State of Wisconsin (State Fair Grounds).
9)	Key factors for success/failure of the venture.	X		Successful operations are based on primarily historical parking trends from transient parkers and special event parkers.
10)	Governance structure and procedures.	X		Vendor is organized as a Limited Liability Corporation under Ch. 183 of Wisconsin Statutes (Vendor provided a copy of its Articles of Incorporation). Corporate Offices are located at 701 N Plankinton Ave, Milwaukee WI 53203.
11)	Public policy impacts (e.g. Affirmative Action. Disadvantaged Business).	X		<u>DBE:</u> Community Business Development Partners review was not required as no county (or federal) money is being spent on the project. However, Vendor will use all reasonable efforts to cause its contractors to establish Disadvantaged Business Enterprise (DBE) participation goals, consistent with the County's DBE goals of 25% for construction and 17% for professional services, for the planning, development and construction of improvements and to use good faith efforts to achieve these goals. <u>Affirmative Action:</u> Vendor agrees that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program, which shall have as its objective to increase the utilization of women, minorities and handicapped persons and other protected groups, at all levels of employment in all divisions of the seller's work force, where these groups may have been previously under-utilized and under-represented. Vendor also agrees that in the event of any dispute as to compliance with the aforesaid requirements, it shall be its responsibility to show that it has met all such requirements.
12)	Employee/labor relations impacts (including benefits).	X		County employees staff time assigned to lot operations is relatively limited. County staff time applied to (limited) lot-related duties will be re-assigned to other responsibilities. Employees operating the lot will be Vendor employees.
13)	Environmental concerns.	X		No environmental concerns have been identified.

Due Diligence Milwaukee County Ordinance Chapter 32.88

	<u>Applicable Requirements of Milwaukee County Ordinance Chapter 32.88</u>	<u>Information Provided?</u>		<u>Description</u>
		<u>Yes</u>	<u>No</u>	
14)	Tax consequences.	X		Vendor will be responsible for sales tax generated from revenue generated by lot operations.
15)	Capital management (e.g. maintenance).	X		Vendor to provide crack-sealing, pay-kiosk, lighting, signage, and other lot improvements.
16)	Conflicts of interest/ethics.	X		Vendor acknowledges Milw County Ethics Code and to their knowledge, has no potential conflict of interest.
17)	Performance measurements.	X		Agreement includes specific operational standards and lot improvements Vendor must make. Additionally, Vendor will pay a \$25,000 performance bond (payable to the County) should it be in default in any of the performance terms of the Agreement.
18)	Organizational chart and mission statement.	X		Vendor provided Org Chart. Vendor does not have a mission statement.
19)	Name of lending institution.	X		Vendor provided name (the Private Bank) and location (120 S LaSalle Street, Chicago, IL 60603) of the lending institution it maintains its accounts with.
20)	Analysis of proposed fiscal costs, or savings, for current and subsequent year(s), including any revenue offsets, fringe benefit impacts, unemployment compensation costs or any other one-time costs.	X		STAFF EXPENSE: Limited County staff time is dedicated to the lot. Related County staff will be able to perform other needed work duties in the department. MAJOR MAINT IMPROVEMENTS: Interstate will make \$70,000 of lot improvements. REVENUE: Estimated annual net revenue (revenue less expenditures) from County operations of the lot ranges between \$264,000 (low) to \$292,000 (high) over the past three years (based on actual revenue and expenditures from 2010 - 2012). Interstate's minimum payment to County for lot operations is \$300,000 annually for Agreement years 1-3 and \$305,000 annually for years 4-5. Based on these figures, the County revenues could increase between \$24,000 - \$108,000 for years 1-3 (cumulative) and between \$50,000 and \$190,000 (cumulative) if extended to years 4-5. Additionally, if Interstates generate more than \$350,000 in annual gross revenue from lot operations, it will pay the County an additional 10% of the \$350,000 in gross revenue.
21)	Commitment of the proposed vendor to make a good faith effort to retain county workers that may otherwise be subject to layoff.	X		County staff is not being layed-off as a result of the agreement.
22)	Assessment of the current marketplace to determine if adequate competition exists to ensure that future year price agreements are competitively priced.	X		Although the County staff did not perform a marketplace assessment, staff believes that use of the RFP process helps to establish a fair market value. The process used with this RFP is similar to that used by the DAS-Real Estate Services section in the securing of leases for E/W I794 Freeway lot leases. Correspondingly, it was also taken into consideration that the vendor proposal provided a minimum annual payment of \$300,000 (years 1-3)/\$305,000 (years 4-5), on a parking lot, that has on average (over the last 3 years), made less than \$300,000 annually under County operations.
23)	Location of employer and residences of proposed employees to assess the amount of public funds that will be retained in Milwaukee County.	X		Vendor's corporate office is located at 701 N Plankinton Ave, Milwaukee WI 53203. Vendor indicated that its employees working at the 6th and State lot live in Milwaukee County (3 live in Milwaukee and 1 lives in West Allis). To note, the County is not making any payments to Vendor.
24)	Description of current and proposed performance standards and how accountability from the private vendor will be measured and reported.	X		The agreement includes a number of terms and provisions that provide for Vendor accountability and performance. In general, failure on the part of the Vendor to observe or perform any of the terms, covenants or conditions in the agreement entitle the County to pursue actions and proceedings as may be necessary to compel specific performance and payment of all damages and reasonable expenses and costs and/or to terminate this agreement.