

City of Cambridge

MASSACHUSETTS

In City Council Sept 8, 2003

Committee Report #6

Demonstration of Process

YEA	NAY	ABSENT	PRESENT	
✓				Vice Mayor Henrietta Davis
✓				Ms. Marjorie C. Decker
✓				Mr. Anthony D. Galluccio
✓				Mr. David P. Maher
✓				Mr. Brian Murphy
✓				Mr. Kenneth E. Reeves
✓				Ms. Denise Simmons
		✓		Mr. Timothy J. Toomey, Jr.
✓				Mayor Michael A. Sullivan

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City of Cambridge

MASSACHUSETTS

In City Council Sept 8, 2003

Committee Rpt # 6

Authorization to Enter Lease

YEA	NAY	ABSENT	PRESENT	
✓				Vice Mayor Henrietta Davis
✓				Ms. Marjorie C. Decker
✓				Mr. Anthony D. Galluccio
✓				Mr. David P. Maher
✓				Mr. Brian Murphy
✓				Mr. Kenneth E. Reeves
✓				Ms. Denise Simmons
		✓		Mr. Timothy J. Toomey, Jr.
✓				Mayor Michael A. Sullivan

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*BM on susp for recessed w/8
 Recessed failed 0-8*

The committee heard from Michael Brandon, 27 Seven Pines Avenue, who stated that he was opposed to the manner by which the City Manager made his recommendation. He called attention to Chapter 2.110 of the Municipal Code regarding disposition and diminution of city property (**ATTACHMENT C**). To approve the diminution process as proposed by the City Manager is a mistake because it would result in an unsatisfactory agreement. Nini's Corner is a long-time business that may want to participate in the process, he said. When Mr. Cohen went bankrupt Hudson, a large news distributor, bought him out and the contract was transferred to Hudson at this time. Hudson will be the largest bidder and should pay fair market value. The City Council should hold a public hearing to determine if the best use is a newsstand. He suggested that the site should have additional uses, such as public restrooms. The site would be used for the sale of T-passes and to disseminate bus schedules. The Planning Board process is not necessary, he said. Paragraph 7 of Chapter 2.110, financial review and independent appraisals, is imperative. He asked for background information as to how the Assessors arrived at their figures. He stated that he wanted real estate appraisals. The contract that is expiring does not protect the city's interest. The RFP needs to be clear and state that the City has the right to terminate the lease for any cause with reasonable notice. He requested that the City Council not delegate to the City Manager the authority to issue an RFP until it is revised and the City Council has reviewed the revised RFP. He further suggested that the rent should include a percentage of overall sales. He requested that this be explored. He also stated that the sale of certain city publications be considered. He asked that when the Purchasing Agent reviews the RFP that the City Council and members of the public be present.

Vice Mayor Davis commented on the evaluation and using the site as a visibility site. Is the site protected from being used as a billboard site, she asked? Could a billboard vendor bid on the site posing as a newspaper vendor and use the site as a billboard? Councillor Murphy stated that there is language in the RFP to protect the city, specifically Article III, section 2.78.139A or Chapter 40C of the Massachusetts General Laws. Vice Mayor Davis stated that she wanted clear prohibition of the use of the Kiosk for billboard advertising in the RFP. City Solicitor Drisdell stated that an advertisement device on the façade would be an alteration requiring Historical Commission approval. The historical designation and the Zoning Ordinance covered signs. The revised RFP will be sent to the City Council before being finalized. Mr. Healy stated that advertisement would not be permitted. Language will be included if it is not in the Historical or Conservation district language stated City Solicitor Drisdell.

Vice Mayor Davis asked who would be the bidders. The response was not known by the city.

Vice Mayor Davis stated that she like Mr. Brandon's suggestion to sell T-passes at the newsstand. She would like a map at the site containing the bus routes. She requested that this be included in the Comparative Evaluation Criteria in the RFP. She requested the City Manager to confer with Sue Clippinger and Susanne Rasmussen regarding their needs in this matter.

Councillor Murphy commented on the standard applied in the years of experience section of the RFP. Mr. Drisdell stated that 5-10 years could be considered, with a minimum of not less than 5 years.

Councillor Murphy asked what annual fee does the \$130 per foot represent. Mr. DePasquale responded \$58,630 per year. The \$150 per foot represented \$67,650 per year.

Mr. Brandon asked the City Manager why a percentage of sales clause was left out of the lease. Mr. Healy responded that to audit the books of the vender would cost more than the returned percentage. The East Cambridge VFW has this arrangement and it is unworkable, he said.

Vice Mayor Davis stated that even though there is a declining value of newspapers and international news material there is still a lot of interest in tourist information in Harvard Square. Mr. Rossi stated that the Tourist Office distributes this information. Vice Mayor Davis requested that a bidder's proposal to include this information be viewed positively in the Criteria.

Councillor Murphy asked when the lease expires. Mr. Drisdell replied October 31, 2003. There is no automatic renewal. The current tenant is a tenant at sufferance if allowed to stay beyond October 31, 2003.

Mr. Brandon asked the time frame for the RFP. Mr. DePasquale responded 4-6 weeks.

At this time Vice Mayor Davis made the following motion:

ORDERED: That the Request for Proposal (RFP) for the lease of property owned by the city in Harvard Square, known as the Harvard Square Kiosk, 0 Harvard Square be referred to the full City Council with a favorable recommendation pending information on permanent and temporary signage and the possibility of additional public information use, such as transit information, be utilized at the Kiosk.

The motion –

Carried.

Councillor Murphy thanked all those present for their attendance.

The meeting adjourned at ten o'clock and forty-five minutes a. m.

For the Committee,



Councillor Brian Murphy, Chair

ATTACHMENT A

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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307



May 19, 1997

RICHARD C. ROSSI
Deputy City Manager

To The Honorable, The City Council:

In response to Awaiting Report Item Nos. 2 and 3, regarding Out of Town News Services (copies attached for each event), I have attempted to research 41 years of history of this facility which is as follows:

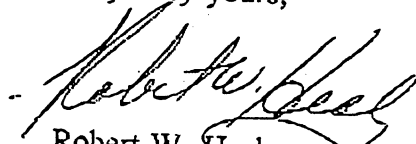
1. January 14, 1957 - City Council authorizes the Commissioner of Public Works to issue a permit for the erection of a newspaper stand in Harvard Square. No rent was required. Out of Town was required to post a \$5,000.00 liability bond.
2. July, 1966 - City Council authorized expansion of structure - No Rent - \$5,000.00 liability bond.
3. January 2, 1968 - City Manager DeGuglielmo executes 5-year lease for \$300.00 per month rent.
4. October, 1975 - City Manager Corcoran executes 5-year lease for \$390.00 per month plus increases tied to Rent Control Board, across the board increases, if any.
5. October, 1978 - City Manager Sullivan extends 5-year lease for \$679.68 per month, for a total annual rent of \$8,156.16.
6. Concurrently from approximately 1976 to 1977 much discussion occurred between the Historical Commission and the MBTA about the future of the Harvard Square Kiosk that resulted in a Memorandum of Agreement between the Historical Commission, MBTA and DOT.
7. November, 1978 - letter to MBTA from City Manager Sullivan outlining City's position on Kiosk and Out of Town News.
8. In 1982, Appraisal of property establishes a fair market rental of \$16,850.00 per year.
9. In 1983 at the conclusion of the relocation and completion of the Harvard Square/MBTA project, City Manager Healy executes lease for \$16,850.00 plus a CPI escalator, which would be greater than rent control increases, for any permitted lease extensions.

The Honorable, The City Council
May 19, 1997
Page 2

10. 1988 - 5-year extension executed for \$20,048.00 which reflects CPI escalator.
11. October 1, 1993 - Lease extended for 2nd 5-year option including CPI.
12. July 11, 1994 - Lease assigned to Hudson County News Company subject to a technical amendment which requires taxes to be paid on structure and require Historical Commission approval for any exterior changes to the structure and treats it as if the land were within a historic district within the City of Cambridge.
13. Historical Commission grant certificate of appropriateness for alterations

Significant changes, since the 1983 lease, in the value of leased premises in the Harvard Square area, will effect any lease agreement that might occur upon the expiration of the 1983 lease.

Very truly yours,



Robert W. Healy
City Manager

RWH/mec
attachment

DRAFT

**CITY OF CAMBRIDGE
REQUEST FOR PROPOSALS
LEASE OF THE HARVARD SQUARE KIOSK
ZERO HARVARD SQUARE
CAMBRIDGE, MA 02138**

SECTION I. OVERVIEW

The purpose of this Request for Proposals ("RFP") is to solicit proposals for the lease of property owned by the City of Cambridge (the "City") in Harvard Square, known as the Harvard Square Kiosk at Zero Harvard Square (the "Kiosk"). The property is located proximate to the main Massachusetts Bay Transit Authority ("MBTA") Red Line subway entrance in a building presently entitled "Out Of Town News." The Kiosk was restored and adaptively reused as a newsstand in 1984. It is the City's intent that the property continues to be used for newsstand purposes. The Kiosk is listed on the National Register of Historic Places, and will be protected by a provision in the lease that requires that the Cambridge Historical Commission approve any exterior alteration, construction, or demolition.

Offerors must meet all minimum evaluation criteria, must complete the enclosed proposal form and price summary form, and must include the requested documents. The minimum financial terms for a lease of the building shall be \$130.00 per square foot of area. Cambridge has attempted in this RFP to be as accurate as possible, but is not responsible for any unintentional errors herein. No statement in this document shall imply a guarantee on the part of the City as to potential relief from State, Federal or Local regulations.

SECTION II. INSTRUCTIONS TO OFFERORS

1. Failure to complete the attached forms, to answer any question, or to provide the documentation required will be deemed non-responsive and result in an automatic rejection of the proposal unless the City determines that such failure constitutes a minor informality, as defined in M.G.L. c.30B.
2. All proposals shall include a bid deposit of One Thousand Dollars (\$1,000) in the form of a check made payable to the City of Cambridge. The deposit will be refunded after the City selects the successful proposal.
3. All requests for clarification or any questions about information contained in this RFP must be submitted in writing and addressed to Cynthia H. Griffin, Purchasing Agent, City of Cambridge, City Hall, 795 Massachusetts Avenue, Cambridge, MA 02139. No requests or questions will be accepted after 5:00 p.m. on [date]. The name, address, telephone number and FAX number of the person to whom such additional information should be sent must be provided by the offeror.
4. Five copies of the proposal must be received by Cynthia H. Griffin, Purchasing Agent, City of

Cambridge, Third Floor of City Hall **prior to 11:00 a.m., Wednesday, [date]**. Proposals must be delivered in a sealed package labeled "Proposal for Harvard Square Kiosk."

5. Offerors may correct, modify or withdraw proposals prior to the proposal opening. An offeror who wishes to withdraw a proposal must make the request in writing. Any corrections or modifications to a proposal must be submitted in writing. Corrections or modifications must be in a sealed envelope when submitted.
6. An offeror's proposal will remain in effect for a period of 90 calendar days from the deadline for submission of proposals or until it is formally withdrawn, a lease (lease) is executed or this RFP is canceled, whichever occurs first.

SECTION III. EVALUATION OF THE PROPOSALS

The Evaluation Committee will review all proposals in accordance with M.G.L. c.30B, and final selection will be based upon an evaluation and analysis of the information and materials required under this RFP. The Purchasing Agent will designate the Evaluation Committee. The lease will be awarded to an offeror who meets the minimum evaluation criteria, submits the required documents, has the demonstrated experience and resources to fulfill the terms of the lease, and best meets the comparative evaluation criteria.

The City will award a lease to only one responsive and responsible, eligible offeror. The City reserves the right to reject any and all proposals if it determines that it is in the best interest of the City to do so. The City also reserves the right to waive any informality in the proposal process or to accept the proposal deemed to be in the best interest of the City.

SECTION IV. DESCRIPTION OF PROPERTY

Offerors are advised to familiarize themselves with the site prior to submitting a proposal.

The Kiosk is located in Harvard Square proximate to the northerly end of the MBTA Red Line subway entrance in Harvard Square, in a building presently entitled "Out Of Town News." The property is a one-story wood frame structure containing 451 square feet of rentable space and the outside ground areas directly under the roof overhang of the structure; an additional amount of ground area of up to three feet beyond the perimeter of the roof overhang may be included in the area to be leased if desired by lessee, in the City's discretion. The heating and air conditioning are electric. There are no bathroom facilities.

The Kiosk was constructed in 1928 by the Boston Elevated Railway, the predecessor of the MBTA, to replace the original subway head-house of 1912 that was considered a menace to traffic. Its original function was to shelter the stairs and escalators leading to the station platforms.

The building was designed by a member of the faculty at the Massachusetts Institute of Technology to be transparent to the vehicular traffic that then surrounded the site on all three

sides. The low masonry walls used hand-made brick and limestone in a manner imitating the nearby Widener gates to Harvard Yard. The roof is supported on slender brick and limestone pillars and all the intervening spaces were glazed for visibility through the structure.

The Kiosk was restored and adaptively reused as a newsstand in 1984 after having been dismantled and stored off the site during construction of the MBTA's Red Line Extension project. Peter Hopkinson and Edward Tsoi of Skidmore, Owings & Merrill designed the restoration.

The Kiosk was placed on the National Register of Historic Places in 1978, after it was identified by the Cambridge Historical Commission as having extraordinary significance as an example of mass transit architecture and as an internationally recognized symbol of Harvard Square. The structure will be protected by a provision of its lease that requires that the Cambridge Historical Commission approve any exterior alteration, construction, or demolition as though the building were a designated landmark under the provisions of Section 2.78.139A Article III of the Municipal Code or were within a Historic District established under Chapter 40C of the Massachusetts General Laws. The structure is also located in the Harvard Square Conservation District, which carries similar protection. The property is located in a Business B zoning district.

SECTION V. LEASE TERMS & CONDITIONS

The successful bidder shall execute a lease with the City, which shall include the following terms and conditions.

1. The City shall have the right to terminate the lease with thirty (30) days' notice to lessee.
2. The term of the lease shall be for five years, with a second five-year term at the sole discretion of the City.
3. The Lessee shall pay the rent monthly in advance without demand. The rent in the second year of the lease shall be an amount equal to the annual rent payable during the initial year hereof increased, but not decreased, proportionately with the increase in the most recent Consumer Price Index for all Boston area urban consumers (CPI/U) published by the Bureau of Labor Statistics, United States Department of Labor between the first month of the initial year of this lease and the first month of the second year of this lease, or 3% whichever is greater. Calculation of the lease payment in the ensuing years will use the same formula used to calculate year one and year two lease increases.
4. Lessee shall provide appropriate insurance on the property, naming the City as an additional named insured during the term of occupancy, so as to protect the interests of the City in the property, with limits acceptable to the City. The successful lessee will be required to indemnify and hold harmless the City, in form acceptable to the City Solicitor, for and against any claims, actions, demands, damages, costs or expenses arising out of or related to lessee's use of the premises, including attorneys' fees.

5. Lessee shall covenant and agree that neither the lease nor the term thereof, nor the estate thereby granted, nor any interest herein or therein, shall be assigned, mortgaged, pledged, encumbered or otherwise transferred and that neither the premises, nor any part thereof, shall be encumbered in any manner by reason of any act or omission of lessee, or used or occupied, or permitted to be used or occupied, by anyone other than lessee and its employees, or for any use or purpose other than stated in its proposal to the City, or be sublet, or offered or advertised for subletting, without in each case, the City's prior express written consent.
6. The lessee will have complete responsibility for the operation and maintenance of the building and grounds around the building and all expenses related thereto, including a minimum of ten feet beyond the perimeter of the entire building and the provision of clear access to the building from all public ways adjacent thereto, for the full term of the lease including taxes as required by law (real estate and personal property, if applicable), snow and ice removal, rubbish removal, all utilities, and all repairs required to maintain the building and outside ground areas leased or maintained in compliance with all applicable provisions of law, regulations, and building codes.
7. The Lessee shall agree that no changes shall be made to the exterior of the structure or its appurtenances that would require a Certificate of Appropriateness or a Certificate of Hardship if the premises were within a Historic District established under Chapter 40C of the Massachusetts General Laws, without in either case in each instance obtaining such a Certificate from the Cambridge Historical Commission, and effecting such changes in accordance with such Certificate, and shall thereby consent and agree to the jurisdiction and procedures of said Commission with respect to the application for and granting of such Certificate as fully as if the land were within a historic district within the City of Cambridge.
8. The premises shall be used for newsstand purposes only, including the sale of merchandise normally offered for sale at newsstands as described by the lessee in its proposal. Lessee shall not encroach on land surrounding the Kiosk without the prior express written consent of the City. Such prior express written consent may be given and payment for such exterior space will be at the same square foot rate as the lessee may then be paying, subject to the increases set forth in the lease as to the leased area.
9. In case the premises or any part thereof during said term is destroyed or damaged by fire or other casualty, so that the same shall be thereby rendered unfit for use and habitation, then, and in such case, the rent reserved, or a just and proportional part thereof, according to the nature and extent of the injuries sustained, shall be suspended or abated until the premises shall have been put in proper condition for use and habitation by the Lessee, which restoration the lessee shall promptly make, or the lease shall thereby be determined and ended at the election and sole discretion of the City.

SECTION VI.

COMPARATIVE EVALUATION CRITERIA

The ratings of "highly advantageous", and "not advantageous" will be used to evaluate the following features of each proposal.

1. Proposed use of the building:

A rating of highly advantageous will be given to the offeror who will provide a richly diverse selection of publications and materials consistent with the diversity of the Cambridge population and visitors to the Harvard Square area.

A rating of not advantageous will be give to the offeror who will provide a limited diversity of publications and materials consistent with the diversity of the Cambridge population and visitors to the Harvard Square area.

2. Years of experience in the newsstand business:

A rating of highly advantageous will be given to the offeror who possesses at least ten (10) years in the newsstand business in a highly diverse and highly trafficked area similar to Harvard Square.

A rating of not advantageous will be given to the offeror who possesses at least five (5) years in the newsstand business in a highly diverse and highly trafficked area similar to Harvard Square.

3. Price

A rating of highly advantageous will be given to the offeror who offers the highest per square foot price above the minimum allowed.

A rating of not advantageous will be given the offeror who offers the lowest per square foot price above the minimum allowed.

SECTION VII.

DOCUMENT SUBMISSION REQUIREMENTS

The following documents must accompany the proposal. Failure to provide any of the requested documents may result in the determination that the offeror is non-responsive.

1. A detailed description of the products and merchandise to be sold, materials and services that will be offered at the Kiosk, including an organizational chart of the lessee together with contact information, their background and credentials.
2. Proposal Form
3. Anti-Collusion and Tax Compliance Certificate

4. Price Summary Form
5. Disclosure of Beneficial Interest
6. A copy of the most recent annual financial report (audited by a Certified Public Accountant).
7. A list of five references, including contact name and telephone number. The City reserves the right to contact these references and any other it deems important in determining whether the offeror is responsible. The City reserves the right to use itself as a reference.

CITY OF CAMBRIDGE, PURCHASING DEPARTMENT
795 MASSACHUSETTS AVENUE, RM. 303
CAMBRIDGE, MA 02139

PROPOSAL FORM FOR LEASE OF REAL ESTATE
Harvard Square Kiosk

1. Name of person submitting proposal: _____

Address: _____

Telephone: _____

2. Please check one of the following:

() Corporation, incorporated in the State of: _____

() Partnership, names of partners are: _____

() Individual

() Other: _____

3. Minimum Evaluation Criteria

The City of Cambridge will reject any proposal that does not meet the minimum evaluation criteria. A "NO" response or a failure to respond to any of the following minimum evaluation criteria will result in a rejection of your proposal. Please check YES or NO for each of the minimum criteria listed below:

A. The offeror has sufficient assets to fulfill the payment requirements under the lease as demonstrated by its latest annual financial report (audited by a Certified Public Accountant).

YES ____ NO ____

B. The offeror has been in business for at least five years.

YES ____ NO ____

ANTI-COLLUSION AND TAX COMPLIANCE CERTIFICATE

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization or other group of individuals.

As required by MGL Chapter 62C, Section 49A, the undersigned further certifies under penalty of perjury that the bidder has complied with all of the laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature: _____

Name of person signing proposal: _____

Title of officer signing for firm, if applicable: _____

Name of business, of applicable: _____

Address: _____

Signature of all firm partners, if applicable: _____

PRICE SUMMARY FORM

LEASE
HARVARD SQUARE KIOSK

\$ _____ per square foot for 451 sq. ft. for Year One

\$ _____
(TOTAL LUMP SUM)

(AMOUNT IN WORDS)

(Company)
CITY OF CAMBRIDGE

DISCLOSURE STATEMENT OF SELLER OR LESSOR
ACQUISITION OF REAL PROPERTY

For acquisition of real property by the City of Cambridge, the undersigned does hereby state, for the purpose of disclosure of a transaction relating to real property pursuant to Massachusetts General Law c. 7 s. 40J, as follows:

1. Real Property: _____
2. Term: _____
3. Buyer or Lessee: _____
4. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property, including any official elected to public office in the Commonwealth or any employee of the Division of Capital Planning and Operations:

Signed under the penalties of perjury.

Name _____

Title _____

Date _____

THIS PAGE MUST BE SUBMITTED WITH YOUR PROPOSAL

Chapter 2.110

CITY-OWNED LAND AND BUILDINGS

Sections:

2.110.010 Disposition of city property.**2.110.010 Disposition of city property.**

This chapter shall apply to the sale, transfer, lease or rental, or exchange of any city-owned property or property rights or interest such as a public easement on private property, collectively called "Disposition of City Property."²⁰ This chapter shall not apply to the transfer of real estate, or any interest therein, to the Affordable Housing Trust for the purposes of construction of low- and moderate-income housing pursuant to M.G.L. c. 40, s. 15A.

The purpose of this chapter is to protect the citizens of Cambridge and to achieve land uses that best serve the City's public purpose.

In addition, when the public purpose is found to be best served by a disposition of City property for a private purpose, the City's objective will be to receive the fair market value for such property, to protect real estate values, and to dispose of each property without favoritism.

No disposition of City property shall be completed unless the above criteria have been satisfied, all requirements of applicable State law have been met, and the following process has taken place:

A. The City Manager shall be responsible for engaging in a process that will result in a fair analysis of how the greatest public benefit can be obtained from the City property in question.

B. The City Manager shall prepare a report. The report shall be based on careful consideration of the issues enumerated below. In the course of preparing the report, at least one

community meeting shall be held to discuss the issues and community concerns and they shall be addressed in the report. Advance notice of such meetings shall be given to potentially affected persons describing the proposals under consideration. The report shall include the following information:

1. A description and analysis of the alternative uses for the City property, including an analysis of public benefits and drawbacks and the financial impact of each alternative;

2. The use of the City property at the time of the recommended disposition and any actual or projected annual revenues or costs associated with such property;

3. The existing zoning status of the property and other City, State, and federal laws, codes, ordinances and regulations that apply to it at the time of the recommended disposition and that would apply to the various alternative uses analyzed;

4. Any attempts to rezone the property or to change existing laws, codes, ordinances or regulations or uses with regard to the property that have taken place within the previous five years;

5. The development potential of the property;

6. A full description of development plans proposed for the site, including traffic and parking studies and other appropriate analyses of the impact on the neighboring area and the City as a whole;

7. A review of the financial arrangements being recommended, including two independently prepared impartial appraisals of such property's worth that contain an independent, good faith estimate of such property's worth to the prospective buyer, transferee, or lessee.

C. The City Manager shall submit the report to the Planning Board and to the City Council and City Clerk for

2.110.010

public dissemination. The Planning Board shall hold a public hearing not sooner than two weeks after receipt of the report, and after study, shall submit its recommendation to the City Manager for submission to the City Council.

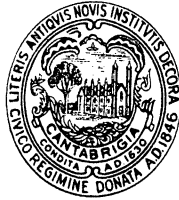
D. The City Council shall hold a public hearing within six weeks of receipt of the City Manager's recommendation and the Planning Board report.

E. At least fourteen days prior to the public hearings by the Planning Board and the City Council, the City Clerk shall post notice of the hearings at various conspicuous locations upon the City property, giving the purpose of the hearing in detail, and shall send this written notice to the owners of property and renters, listed on the annual street list or on the assessor's records, within three hundred feet of the City property.

The City Clerk shall notify civic groups and neighborhood associations who may be affected by or interested in such disposition of City property and shall publish notice of said hearings in newspapers of general circulation within Cambridge at least fourteen days prior to the date of each said hearing.

F. The disposition of City property shall require a 2/3 vote of the City Council.

G. For the disposition of city property that is of such little significance that the above described process would be unduly burdensome, the City Manager may request of the City Council a diminution of this process. Approval of such a request shall require a 2/3 vote of the City Council. (Ord. 1105, 1990)



ATTACHMENT D

CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager

Richard C. Rossi, Deputy City Manager

September 8, 2003

To The Honorable, The City Council:

Please find attached a copy of the Request for Proposals (RFP) to solicit proposals for the lease of property owned by the City in Harvard Square, known as the Harvard Square Kiosk at Zero Harvard Square, which reflects the changes requested by the City Council and approved by the Finance Committee.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

**CITY OF CAMBRIDGE
REQUEST FOR PROPOSALS
LEASE OF THE HARVARD SQUARE KIOSK
ZERO HARVARD SQUARE
CAMBRIDGE, MA 02138**

SECTION I. OVERVIEW

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4. Five copies of the proposal must be received by Cynthia H. Griffin, Purchasing Agent, City of

Cambridge, Third Floor of City Hall **prior to 11:00 a.m., Wednesday, [date]**. Proposals must be delivered in a sealed package labeled "Proposal for Harvard Square Kiosk."

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The Evaluation Committee will review all proposals in accordance with M.G.L. c.30B, and final selection will be based upon an evaluation and analysis of the information and materials required under this RFP. The Purchasing Agent will designate the Evaluation Committee. The lease will be awarded to an offeror who meets the minimum evaluation criteria, submits the required documents, has the demonstrated experience and resources to fulfill the terms of the lease, and best meets the comparative evaluation criteria.

The City will award a lease to only one responsive and responsible, eligible offeror. The City reserves the right to reject any and all proposals if it determines that it is in the best interest of the City to do so. The City also reserves the right to waive any informality in the proposal process or to accept the proposal deemed to be in the best interest of the City.

SECTION IV. DESCRIPTION OF PROPERTY

Offerors are advised to familiarize themselves with the site prior to submitting a proposal.

The Kiosk is located in Harvard Square proximate to the northerly end of the MBTA Red Line subway entrance in Harvard Square, in a building presently entitled "Out Of Town News." The property is a one-story wood frame structure containing 451 square feet of rentable space and the outside ground areas directly under the roof overhang of the structure; an additional amount of ground area of up to three feet beyond the perimeter of the roof overhang may be included in the area to be leased if desired by lessee, in the City's discretion. The heating and air conditioning are electric. There are no bathroom facilities.

The Kiosk was constructed in 1928 by the Boston Elevated Railway, the predecessor of the MBTA, to replace the original subway head-house of 1912 that was considered a menace to traffic. Its original function was to shelter the stairs and escalators leading to the station platforms.

The building was designed by a member of the faculty at the Massachusetts Institute of Technology to be transparent to the vehicular traffic that then surrounded the site on all three

sides. The low masonry walls used hand-made brick and limestone in a manner imitating the nearby Widener gates to Harvard Yard. The roof is supported on slender brick and limestone pillars and all the intervening spaces were glazed for visibility through the structure.

The Kiosk was restored and adaptively reused as a newsstand in 1984 after having been dismantled and stored off the site during construction of the MBTA's Red Line Extension project. Peter Hopkinson and Edward Tsoi of Skidmore, Owings & Merrill designed the restoration.

The Kiosk was placed on the National Register of Historic Places in 1978, after it was identified by the Cambridge Historical Commission as having extraordinary significance as an example of mass transit architecture and as an internationally recognized symbol of Harvard Square. The structure will be protected by a provision of its lease that requires that the Cambridge Historical Commission approve any exterior alteration, construction, or demolition as though the building were a designated landmark under the provisions of Section 2.78.139A Article III of the Municipal Code or were within a Historic District established under Chapter 40C of the Massachusetts General Laws. The structure is also located in the Harvard Square Conservation District, which carries similar protection. The property is located in a Business B zoning district.

SECTION V. LEASE TERMS & CONDITIONS

The successful bidder shall execute a lease with the City, which shall include the following terms and conditions.

1. The City shall have the right to terminate the lease with thirty (30) days' notice to lessee.
2. The term of the lease shall be for five years, with a second five-year term at the sole discretion of the City.
3. The Lessee shall pay the rent monthly in advance without demand. The rent in the second year of the lease shall be an amount equal to the annual rent payable during the initial year hereof increased, but not decreased, proportionately with the increase in the most recent Consumer Price Index for all Boston area urban consumers (CPI/U) published by the Bureau of Labor Statistics, United States Department of Labor between the first month of the initial year of this lease and the first month of the second year of this lease, or 3% whichever is greater. Calculation of the lease payment in the ensuing years will use the same formula used to calculate year one and year two lease increases.
4. Lessee shall provide appropriate insurance on the property, naming the City as an additional named insured during the term of occupancy, so as to protect the interests of the City in the property, with limits acceptable to the City. The successful lessee will be required to indemnify and hold harmless the City, in form acceptable to the City Solicitor, for and against any claims, actions, demands, damages, costs or expenses arising out of or related to lessee's use of the premises, including attorneys' fees.

5. Lessee shall covenant and agree that neither the lease nor the term thereof, nor the estate thereby granted, nor any interest herein or therein, shall be assigned, mortgaged, pledged, encumbered or otherwise transferred and that neither the premises, nor any part thereof, shall be encumbered in any manner by reason of any act or omission of lessee, or used or occupied, or permitted to be used or occupied, by anyone other than lessee and its employees, or for any use or purpose other than stated in its proposal to the City, or be sublet, or offered or advertised for subletting, without in each case, the City's prior express written consent.
6. The lessee will have complete responsibility for the operation and maintenance of the building and grounds around the building and all expenses related thereto, including a minimum of ten feet beyond the perimeter of the entire building and the provision of clear access to the building from all public ways adjacent thereto, for the full term of the lease including taxes as required by law (real estate and personal property, if applicable), snow and ice removal, rubbish removal, all utilities, and all repairs required to maintain the building and outside ground areas leased or maintained in compliance with all applicable provisions of law, regulations, and building codes.
7. The Lessee shall agree that no changes shall be made to the exterior of the structure or its appurtenances that would require a Certificate of Appropriateness or a Certificate of Hardship if the premises were within a Historic District established under Chapter 40C of the Massachusetts General Laws, without in either case in each instance obtaining such a Certificate from the Cambridge Historical Commission, and effecting such changes in accordance with such Certificate, and shall thereby consent and agree to the jurisdiction and procedures of said Commission with respect to the application for and granting of such Certificate as fully as if the land were within a historic district within the City of Cambridge. **The Lessee further agrees that any and all signage, permanent or temporary, related to the use of said structure, shall be approved at the sole discretion of the City.**
8. The premises shall be used for newsstand purposes only, including the sale of merchandise normally offered for sale at newsstands as described by the lessee in its proposal. Lessee shall not encroach on land surrounding the Kiosk without the prior express written consent of the City. Such prior express written consent may be given and payment for such exterior space will be at the same square foot rate as the lessee may then be paying, subject to the increases set forth in the lease as to the leased area.
9. In case the premises or any part thereof during said term is destroyed or damaged by fire or other casualty, so that the same shall be thereby rendered unfit for use and habitation, then, and in such case, the rent reserved, or a just and proportional part thereof, according to the nature and extent of the injuries sustained, shall be suspended or abated until the premises shall have been put in proper condition for use and habitation by the Lessee, which restoration the lessee shall promptly make, or the lease shall thereby be determined and ended at the election and sole discretion of the City.

SECTION VI.

COMPARATIVE EVALUATION CRITERIA

The ratings of “highly advantageous”, and “not advantageous” will be used to evaluate the following features of each proposal.

1. Proposed use of the building:

A rating of highly advantageous will be given to the offeror who will provide a richly diverse selection of publications and materials consistent with the diversity of the Cambridge population and visitors to the Harvard Square area (**e.g. MBTA maps & schedules, visitor information related to the City**).

A rating of not advantageous will be give to the offeror who will provide a limited diversity of publications and materials consistent with the diversity of the Cambridge population and visitors to the Harvard Square area.

2. Years of experience in the newsstand business:

A rating of highly advantageous will be given to the offeror who possesses at least ten (10) years in the newsstand business in a highly diverse and highly trafficked area similar to Harvard Square.

A rating of not advantageous will be given to the offeror who possesses at least five (5) years in the newsstand business in a highly diverse and highly trafficked area similar to Harvard Square.

3. Price

A rating of highly advantageous will be given to the offeror who offers the highest per square foot price above the minimum allowed.

A rating of not advantageous will be given the offeror who offers the lowest per square foot price above the minimum allowed.

SECTION VII. DOCUMENT SUBMISSION REQUIREMENTS

The following documents must accompany the proposal. Failure to provide any of the requested documents may result in the determination that the offeror is non-responsive.

1. A detailed description of the products and merchandise to be sold, materials and services that will be offered at the Kiosk, including an organizational chart of the lessee together with contact information, their background and credentials.
2. Proposal Form

3. Anti-Collusion and Tax Compliance Certificate
4. Price Summary Form
5. Disclosure of Beneficial Interest
6. A copy of the most recent annual financial report (audited by a Certified Public Accountant).
7. A list of five references, including contact name and telephone number. The City reserves the right to contact these references and any other it deems important in determining whether the offeror is responsible. The City reserves the right to use itself as a reference.

CITY OF CAMBRIDGE, PURCHASING DEPARTMENT
795 MASSACHUSETTS AVENUE, RM. 303
CAMBRIDGE, MA 02139

PROPOSAL FORM FOR LEASE OF REAL ESTATE
Harvard Square Kiosk

1. Name of person submitting proposal: _____

Address: _____

Telephone: _____

2. Please check one of the following:

() Corporation, incorporated in the State of: _____

() Partnership, names of partners are: _____

() Individual

() Other: _____

3. Minimum Evaluation Criteria

The City of Cambridge will reject any proposal that does not meet the minimum evaluation criteria. A "NO" response or a failure to respond to any of the following minimum evaluation criteria will result in a rejection of your proposal. Please check YES or NO for each of the minimum criteria listed below:

A. The offeror has sufficient assets to fulfill the payment requirements under the lease as demonstrated by its latest annual financial report (audited by a Certified Public Accountant).

YES ____ NO ____

B. The offeror has been in business for at least five years.

YES ____ NO ____

ANTI-COLLUSION AND TAX COMPLIANCE CERTIFICATE

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization or other group of individuals.

As required by MGL Chapter 62C, Section 49A, the undersigned further certifies under penalty of perjury that the bidder has complied with all of the laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature: _____

Name of person signing proposal: _____

Title of officer signing for firm, if applicable: _____

Name of business, of applicable: _____

Address: _____

Signature of all firm partners, if applicable: _____

PRICE SUMMARY FORM

LEASE
HARVARD SQUARE KIOSK

\$ _____ per square foot for 451 sq. ft. for Year One

\$ _____
(TOTAL LUMP SUM)

(AMOUNT IN WORDS)

(Company)
CITY OF CAMBRIDGE

DISCLOSURE STATEMENT OF BUYER OR LESSEE
ACQUISITION OF REAL PROPERTY

For disposition of real property by the City of Cambridge, the undersigned does hereby state, for the purpose of disclosure of a transaction relating to real property pursuant to Massachusetts General Law c. 7 s. 40J, as follows:

1. Real Property: _____
2. Term: _____
3. Buyer or Lessee: _____
4. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property, including any official elected to public office in the Commonwealth or any employee of the Division of Capital Asset Management:

Signed under the penalties of perjury.

Name _____

Title _____

Date _____

THIS PAGE MUST BE SUBMITTED WITH YOUR PROPOSAL

City of Cambridge

FINANCE COMMITTEE MEMBERS

Councillor Brian Murphy, Chair
Vice Mayor Henrietta Davis
Councillor Marjorie C. Decker
Councillor Anthony D. Galluccio
Councillor David P. Maher
Councillor E. Denise Simmons
Councillor Timothy J. Toomey
Mayor Michael A. Sullivan

In City Council September 8, 2003

The Finance Committee held a public meeting on Friday, August 8, 2003 at ten o'clock and ten minutes a. m. in the Mayor's Conference Room.

The purpose of the meeting was to discuss the issue of a Request for Proposals (RFP) and to solicit proposals for the lease of property owned by the city in Harvard Square, known as the Harvard Square Kiosk, 0 Harvard Square.

Present at the hearing were Councillor Brian Murphy, Chair of the Committee, Vice Mayor Henrietta Davis, Robert W. Healy, City Manager, Richard Rossi, Deputy City Manager, Louis DePasquale, Assistant City Manager for Fiscal Affairs, Donald Drisdell, City Solicitor and Donna P. Lopez, Deputy City Clerk. Also present was Michael Brandon, 27 Seven Pines Avenue, Cambridge, MA.

Councillor Murphy opened the meeting and stated the purpose. He asked City Manager Robert W. Healy to comment on the issue.

Mr. Healy stated that his thought process was that the current lease was a long-term lease with renewable options. The current lease will expire on October 31, 2003. The Kiosk has always been used as a newsstand. He submitted a historical overview of the site (**ATTACHMENT A**). There is an extensive RFP for bidders. If the City Council wanted to explore other alternatives other than a newsstand then Mr. Healy would recommend the full process under the disposition ordinance. If the City Council desires to keep the newsstand use, then Mr. Healy's recommendation was to diminish the process, to maintain the use as a newsstand and authorize him to issue an RFP. The minimum rental fee will be \$130.00 per foot; competitive bidding would lead to a higher rent. The insurance provision is standard in the RFP. On page five of the Draft RFP the Comparative Evaluation Criteria is outlined (**ATTACHMENT B**). If the newsstand use is continued by the City Council, a variety of material will be for sale, however the use of the Internet has impacted the quantity of out-of-town newspapers. The Kiosk as a newsstand is a tradition for Harvard Square. He assumed that the City Council would want to keep the use as a newsstand, but if the City Council wanted to use the site for an alternative use he would be glad to initiate the full disposition procedure.

Vice Mayor Davis stated that she would like the site to remain a newsstand.

At ten o'clock and fifteen minutes a. m. Councillor Murphy opened the meeting to public comment.

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Committee Report #6

A communication was received from Donna P. Lopez, Deputy City Clerk, transmitting a report from Councillor Brian Murphy, Chair of the Finance Committee, for a meeting held on August 8, 2003 to discuss the issue of a Request for Proposals (RFP) and to solicit proposals for the lease of property owned by the city in Harvard Square, known as the Harvard Square Kiosk, Harvard Square: **(REVISED RFP DATED SEPTEMBER 8, 2003 ATTACHED AS ATTACHMENT D TO REPORT.) REPORT ACCEPTED. PLACED ON FILE.**

In City Council September 8, 2003

**DIMUNITION AND
DISPOSITION
AUTHORIZATION ORDERS
ADOPTED. 8-0-1.**