AUSTIN PUBLIC SCHOOLS
INSPIRE • EMPOWER • ACCELERATE

DATE: July 14, 2026

TITLE: Exclusive Beverage Agreement

TYPE: Action

PRESENTER: Todd Lechtenberg, Executive Director of Finance and Operations

BACKGROUND:

Exclusive beverage contracts are common among Minnesota public school districts and are generally awarded through a competitive Request for Proposal (RFP) process. Evaluations typically consider not only the financial value of each proposal but also the vendor's ability to provide reliable service, equipment maintenance, product availability, customer support, and community partnerships. Districts also ensure that all beverage offerings comply with applicable federal and state nutrition standards, including the USDA Smart Snacks in School requirements where applicable.

These partnerships typically include financial incentives such as annual sponsorship payments, commission revenue from vending sales, equipment provided at little or no cost, marketing support for district events, and product donations for student activities and community events. In return, the district agrees to purchase and sell beverages from the selected vendor in accordance with the terms of the agreement.

RATIONALE:

Following the receipt and evaluation of proposals from both Pepsi and Coca-Cola, the district entered into negotiations with Pepsi for an exclusive beverage agreement. The proposed agreement will be in effect for a two-year term, covering the 2026–2027 and 2027–2028 school years.

Key provisions of the agreement include:

- Pepsi will supply, install, maintain, and repair beverage equipment at no cost to the district.
- Pepsi will provide the district with an annual sponsorship payment of $1,500.
- The district will receive rebates on each case of qualifying beverage products purchased.

- Pepsi will design and print up to five promotional banners annually at no cost to the district for use at school events and facilities.

This agreement provides the district with operational efficiencies, financial benefits, and marketing support while ensuring reliable beverage service across district facilities.

RECOMMENDATION:

Recommend the School Board approve the 2026-2027 and 2027-2028 exclusive beverage agreement between Pepsi and Austin Public Schools.

Gillette Pepsi Companies

EXCLUSIVE BEVERAGE AGREEMENT

This **Exclusive Beverage Agreement** is between: **Pepsi-Cola Bottling Company of Rochester, MN, (Bottler)** and **Austin Public Schools (Customer).**

"Customer premises" shall be defined to include the following facilities and premises: **Austin Public Schools** (401 3rd Ave NW, Austin, MN 55912)

Term
The term of this Agreement is two (2) years, starting on 07/01/2026. When fully executed, this agreement will constitute a binding obligation of both parties until such time as the foregoing commitment of the Customer has been fulfilled by 06/30/2028. For purposes of this agreement, the term "year" will mean 12-month period during the term beginning on the first day of the term or anniversary thereof.

Scope
During the term the Customer shall purchase Pepsi-Cola branded products from the Bottler and its delivery system. These products include, Carbonated Soft Drinks, Teas, Waters, Energy Drinks, Sparkling Waters, Isotonic Drinks, Juices, Coffee based drinks distributed by the Bottler.

Exclusivity
Bottler will be the exclusive non-alcoholic beverage supplier to the Customer during the term.

Exclusivity does not apply to non-alcoholic beverage products that: (a) fall outside Bottler's product portfolio at the time the need arises (e.g., dairy or milk-based beverages); or (b) are required under applicable nutrition, wellness, or regulatory policies where Bottler has no substitutable product within its portfolio that meets such requirements.

Where a gap described in (a) or (b) exists, Customer may source that specific product category from a third-party supplier, provided that: (i) Customer first notifies Bottler in writing of the specific need; (ii) Bottler is given the opportunity to confirm whether a suitable product exists within its portfolio to meet the requirement; and (iii) any third-party sourcing is limited strictly to the identified gap category and does not extend to any product Bottler offers or could reasonably substitute.

Equipment
Bottler will provide dispensing equipment, coolers, and vending Machines as mutually agreed upon. Equipment is the property of the Bottler and is to be used only to dispense Pepsi-Cola products. Bottler shall supply, install, maintain, and repair equipment at no cost, meeting applicable safety/electrical standards. Upon expiration or termination of the Agreement, Bottler shall remove equipment within 15 days, repairing any damage to premises.

Bottler shall make deliveries and/or repairs at the Customer premises per a mutually agreed schedule coordinating around school events and programing. Bottler shall comply with all applicable health and safety laws and promptly notify District of any product recall or safety issue and remove/reimburse affected product.

Bottler personnel or agents entering District premises shall be appropriately identified, comply with all District policies and procedures, and have no unsupervised contact with students without the District's written authorization.

Termination

Either party may terminate this Agreement if the other commits a material breach of this Agreement, provided that the terminating party has given the other party written notice of the breach and the other party has failed to cure the breach within thirty (30) days of such notice. District may terminate this Agreement for convenience upon 60 days' written notice without penalty. District may terminate upon 15 days' written notice without penalty if continued performance would put the District's federal program eligibility at risk. Any upfront payments will be prorated based on time left on the contract up to the termination date.

Prices

Bottler reserves the right to make wholesale pricing adjustments warranted by economic conditions in the local marketplace. Prices are fixed for the first year of this Agreement. Any increase thereafter requires 60 days' written notice and may occur no more than once per contract year. Bottler shall provide cost increase justification upon request. Bottler shall maintain complete and accurate books and records relating to pricing, sales volumes, rebates, and payments for at least six (6) years after expiration/termination. District and its auditors may inspect and copy such records upon reasonable notice.

Funding and Rebates

- Annual Funding of $1,500.00. The first payment will be made within 30 days after the contract start date. Years two and three will be paid out at contract anniversary.
- $3.00 per case rebate on 20oz – 24 count bottles
- $1.50 per case rebate on 20oz or less – 12 count bottles
- Marketing Support: GPC will help design and print custom banners for the school district to promote school and team events. Print up to 5 banners annually.

Cash distributions require account to be in good standing and may be applied to any outstanding balances at the company's discretion. Any marketing or banners on District premises require prior written District approval and must comply with District policies. District owns all right, title, and interest in banners or materials created for District. Bottler shall not use District's name, logo, or marks, or refer to District as a client, in any marketing, publicity, or materials without District's prior written consent.

Bottler Commitment
The Bottler agrees that it and each subcontractor shall to the extent applicable by law comply with (1) the terms of the Equal Opportunity and Affirmative Action clauses, which are incorporated herein by this reference, and program requirements contained in 41 CFR §§ 60-1.4(a), 250.5(a) and 741.5(a), or their successors, concerning women, minorities, eligible veterans and individuals with a disability, (2) the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (41 CFR § 60-4.2(d)), or its successor, (3) the EEO-1 and VETS-100 form filing requirements contained in 41 CFR §§ 60-1.7 and 61-250.5(a), or their successors, and (4) all applicable Executive Orders, laws and regulations relating to any of the above.

Force Majeure
No party will be responsible to the other for any failure, in whole or in part, to perform any of its respective obligations hereunder, to the extent and for the length of time that performance is rendered impossible or commercially impracticable resulting directly or indirectly from any foreign or domestic embargo, product detention, seizure, act of God pandemic, epidemic, insurrection, ware and/or continuance of war, the passage or enactment of any law ordinance, regulation, ruling, or order interfering directly or indirectly with the rendering more burdensome the purchase, production, delivery or payment hereunder, including the lack of the usual means of transportation due to fire, flood explosion , riot strike or other acts of nature or man that are beyond the control of the parties unless such contingency is specifically excluded in another part of this Agreement ("Force Majeure Event"). Any Party(s) so affected, will (i) use all reasonable effort to minimize the effects thereof and (ii) promptly notify the other party(s) in writing of the Force Majeure and the effect of the Force Majeure on such party's ability to perform is obligations hereunder. The affected party(s) will promptly resume performance after it is no longer subject to Force Majeure. If the Force Majeure period continues beyond 90 days, the parties agree to discuss in good faith potential modifications to this Agreement and in the event an agreement cannot be reached, any party may terminate the agreement.

Government Actions
If the action of any local, state or federal government entity (including, but not limited to; the imposition of sales taxes, fees, deposit requirements, or other government-imposed fees) increases the cost of, or the fees associated with, selling any or all of the Beverage, such increases shall be paid by the Customer, and shall not be used in the calculation under a price provision, if any, contained in this Agreement.

MGDPA Compliance Provision
To the extent Bottler receives, accesses, or maintains Government Data, as defined under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 ("MGDPA"), in connection with the performance of this Agreement, Bottler agrees to comply with the requirements applicable to contractors under Minn. Stat. § 13.05, subd. 6. Bottler shall use such

Government Data solely for purposes of performing its obligations under this Agreement and shall not disclose such Government Data except as authorized by law or by the District.

The parties acknowledge that Bottler is not expected to receive, access, or maintain private educational records or other protected student information except as may be necessary to perform its obligations under this Agreement. Bottler's obligations under this provision shall survive termination or expiration of this Agreement.

To the extent required by Minnesota Statutes, section 16C.05, subdivision 5, Bottler shall make available for examination by the District and the State of Minnesota those books, records, documents, accounting procedures, and practices directly related to the performance of this Agreement for a period of six (6) years following expiration or termination of this Agreement.

Indemnification Provision
Bottler shall indemnify and hold harmless the District, its officers, employees, and agents from and against third-party claims, damages, losses, and expenses, including reasonable attorneys' fees, to the extent caused by the negligent acts, omissions, or willful misconduct of Bottler, its employees, agents, or subcontractors in the performance of this Agreement.

Bottler shall not be responsible for any claims, damages, losses, or expenses resulting from the negligence, misconduct, or breach of this Agreement by the District or its employees, officers, agents, or representatives.

In no event shall Bottler be liable for punitive, exemplary, special, or consequential damages except where such damages are awarded by a court of competent jurisdiction in connection with Bottler's willful misconduct.

The obligations contained in this provision shall survive expiration or termination of this Agreement.

Non Assignment Provision
Bottler shall not assign, transfer, or subcontract this Agreement, in whole or part, without District's prior written consent. Any permitted assignment/subcontracting does not relieve Bottler of its obligations, and Bottler is responsible for subcontractor compliance.

Notice Provision
All notices required to be given under this Agreement shall be in writing and delivered as follows. Bottler must provide all notices required under this Agreement to the District by electronic mail or U.S. Mail addressed [title], [individual's name], at [email address] or at [physical address]. The District must provide all notices required under this Agreement to Bottler by electronic mail or U.S. Mail addressed to [title], [individual's name], at [email address] or at [physical address]. Either party may designate a different addressee or address at any time by giving written notice to the other party. Notice that is delivered by mail is effective upon mailing. Notice that is delivered by email is effective upon transmission.

GPC
Gillette Pepsi Companies

Governing Law Provision
This Agreement shall be governed by the laws of the State of Minnesota. The parties further agree that any lawsuit to enforce or challenge any provision of this Agreement or the application of any such provision shall be venue only in state or federal courts having jurisdiction over Mower County, Minnesota.

Entire Agreement Provision
This Agreement contains the entire understanding and agreement of the parties. No party has relied on any statement, promise, inducement, or representation that is not contained in this Agreement. This Agreement supersedes and replaces any and all prior statements and agreements between the parties. This Agreement shall only be amended or modified in writing by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the date first above written.

Customer:	Bottler:
Austin Public Schools	Pepsi-Cola Bottling Company of Rochester
______________________	______________________
(Name)	(Name)
______________________	______________________
(Title)	(Title)
______________________	______________________
(Signature)	(Signature)
______________________	______________________
(Date)	(Date)