

CONTRACT SUPPLEMENT
RFP-37 Rev. 11/22/16
Prev. Rev. 4/28/14

Lynn Peccerillo-Hills
Contract Specialist
860-713-5255
Telephone Number

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES
PROCUREMENT DIVISION
450 Columbus Boulevard, Hartford, CT 06103

CONTRACT AWARD NO.:

9PSX0212

Contract Award Date:

15 September 2009

Proposal Due Date:

27 July 2009

SUPPLEMENT DATE:

30 November 2016

CONTRACT AWARD SUPPLEMENT #6

IMPORTANT: THIS IS NOT A PURCHASE ORDER. Do NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College in Manchester, CT

FOR: Office of Higher Education

TERM OF CONTRACT:

17 December 2009 through 16 December 2019

AGENCY REQUISITION NUMBER: 0000000135

CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made. INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

NOTE: Dollar amounts listed next to each contractor are possible award amounts, however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

NOTICE TO AGENCIES: A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: *Lessing's Foodservice Management Corporation*

Company Address: *3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739*

Tel. No.: *(631) 567-8200 NY or*

Fax No.: (631) 567-8746

Contract Value: No Change

(860) 212-8412 CT

Contact Person: *Scott McKelvey, CFO and Chip Loree General Mgr.*

Delivery: As Required

Contact Person Address: *3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739*

Company E-mail Address and/or Company Web Site scott@lessings.com www.lessings.com

Remittance Address: *same as company address same as Company Address*

Certification Type (SBE, MBE, WBE or None): *None*

Terms: Net 45 Days

Agrees to Supply Political SubDivisions: N/A

PLEASE NOTE: This Supplement is being issued to reflect Pricing Adjustments to menu items effective January 1, 2017. (See attached). All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.

APPROVED _____

LYNN PECCERILLO-HILLS

Contract Specialist

(Original Signature on Document in Procurement Files)

MANCHESTER COMMUNITY COLLEGE

Menu Price List

ITEMS	CURRENT PRICE			PRICES Effective 01/01/2017		
Body armor	\$2.00			\$2.00		
Coffee	\$1.15	\$1.45	\$1.75	\$1.20	\$1.60	\$1.95
Energy drinks	\$3.00			\$3.10		
Fountain	\$1.15	\$1.25	\$1.50	\$1.15	\$1.25	\$1.50
Gatorade	\$1.75			\$1.85		
Hershey	\$2.25			\$2.50		
hot cocoa	\$1.00			\$1.00		
Kick Start	\$2.50			\$2.50		
Milk	\$1.00			\$1.00		
starbucks frap	\$3.00			\$3.25		
Naked	\$4.00			\$4.00		
Silk	\$2.00			\$2.00		
Snapple	\$1.75			\$1.75		
Soda 20 ounce	\$1.75			\$1.85		
pure leaf tea	\$2.00			\$2.10		
Sunny D	\$2.00			\$2.00		
Tea	\$0.85			\$0.85		
Tropicana	\$2.25			\$2.35		
Twister	\$2.10			\$2.10		
Vitamin water	\$2.25			\$2.35		
Water	\$1.15			\$1.15		
BREAKFAST						
Bacon	\$0.60			\$0.65		
Bagel	\$1.10			\$1.25		
Cereal bowl	\$1.75			\$1.75		
Cereal box	\$1.25			\$1.25		
Cheese Omelet	\$2.90			\$3.00		
Coffee roll	\$2.50			\$2.50		
Cream Cheese	\$0.50			\$0.50		
Donut	\$1.00			\$1.00		
Egg (1)	\$0.65			\$0.70		
Egg and Cheese Sandwich	\$2.00			\$2.10		
English Muffin	\$1.00			\$1.00		
French toast sticks	\$2.25			\$2.25		
Grits	\$1.00			\$1.00		
Hash brown pat	\$1.00			\$1.00		
Home fries	\$2.00			\$2.00		
Honey	\$0.50			\$0.50		
Meat or Veggie Omelet	\$3.10			\$3.25		
Milk	\$1.00			\$1.00		
Muffins/Quick Bread	\$1.40			\$1.45		
Oatmeal pack	\$1.00			\$1.00		
Peanut but	\$0.50			\$0.50		
Sausage patty	\$1.10			\$1.20		
Toast	\$0.85			\$0.85		
Tots	\$2.00			\$2.00		
Whole fruit	\$1.00			\$1.00		
egg sand with bacon or sausage	\$2.95			\$3.05		
Yogurt	\$1.50			\$1.50		
Yogurt Greek	\$3.00			\$3.00		

LUNCH COUGARS						
Bacon chburg	\$4.00			\$4.15		
Bacon double chburg	\$6.00			\$6.10		
Cheeseburg	\$3.30			\$3.40		
Chic nuggets	\$3.50			\$3.50		
Chic tenders	\$3.50			\$3.60		
Chips	\$1.10			\$1.15		
Curley fr	\$2.25			\$2.30		
Dog	\$2.25			\$2.25		
Double burger	\$4.75			\$4.95		
Double chburg	\$5.45			\$5.65		
Entrée	market price			market		
Extra cheese	\$0.45			\$0.45		
Fries	\$1.75			\$1.85		
Hamburger	\$2.85			\$2.90		
Pizza	\$2.05			\$2.15		
Pizza meat	\$2.60			\$2.70		
Pretzel	\$2.00			\$2.00		
Salad Bar	\$0.45			\$0.47		
deep river chips	\$1.50			\$1.60		
Egg sandwich	\$2.00			\$2.10		
Muffins	\$1.40			\$1.45		
Donut	\$1.00			\$1.00		
Cereal	\$1.75			\$1.75		
Garden Salad	\$5.95			\$5.95		
Chef Salad	\$5.95			\$6.20		
Chicken Cranberry Salad	\$5.95			\$6.20		
Sandwiches						
Roast Beef	\$4.95			\$5.15		
Tuna	\$4.95			\$5.15		
Chicken Salad	\$4.95			\$5.15		
Salami	\$4.95			\$5.15		
Turkey	\$4.95			\$5.15		
Ham	\$4.95			\$5.15		
Hamburg	\$3.65			\$3.75		
Hot Dog	\$2.25			\$2.25		
Cake	\$2.50			\$2.50		
Pie	\$2.50			\$2.50		
Chicken Patty	\$3.65			\$3.75		
Cookie	\$0.65			\$0.65		
Starbucks coffee	\$1.50	\$1.85	\$2.15	\$1.60	\$2.00	\$2.40

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION

165 Capitol Avenue, 5th Floor South

HARTFORD, CT 06106-1659

Ann Simeone
Contract Specialist

860-713-5051
Telephone Number

CONTRACT AWARD NO.: 9PSX0212
Contract Award Date: 15 September 2009
Proposal Due Date: 27 July 2009
SUPPLEMENT DATE: 9 December 2014

CONTRACT AWARD SUPPLEMENT #5

IMPORTANT: THIS IS NOT A PURCHASE ORDER. Do NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College in Manchester, CT

FOR: Office of Higher Education		TERM OF CONTRACT: December 17, 2009 through December 16, 2019	
		AGENCY REQUISITION NUMBER: 0000000135	
CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE
		N/A	N/A

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made. INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

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CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Lessing's Foodservice Management Corporation**

Company Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Tel. No.: **(631) 567-8200 NY or**

Fax No.: **(631) 567-8746**

Contract Value: **No Change**

(860) 212-8412 CT

Contact Person: **Scott McKelvey, CFO and Chip Loree General Mgr.**

Delivery: **As Required**

Contact Person Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Company E-mail Address and/or Company Web Site scott@lessings.com www.lessings.com

Remittance Address: same as company address same as Company Address

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **N/A**

PLEASE NOTE:

- This Supplement is being issued to reflect Pricing Adjustments to products in accordance with Section 4. (d) Price Adjustments of the Contract Document effective December 17, 2014.

- All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.

APPROVED _____

CAROL WILSON

Procurement Director

(Original Signature on Document in Procurement Files)

BEVERAGES	CURRENT			NEW PRICING		
Apple and eve	\$2.00			\$2.00		
Body armor	\$2.00			\$2.00		
Calypso	\$2.25			\$2.25		
Coffee	\$1.05	\$1.30	1.55	\$1.15	\$1.45	\$1.75
Energy drinks	\$3.00			\$3.00		
Fountain	\$1.00	\$1.15	1.25	\$1.15	\$1.25	\$1.50
Gatorade	\$1.50			\$1.75		
Hershey	\$2.00			\$2.25		
hot cocoa	\$1.00			\$1.00		
Kick Start	\$2.50			\$2.50		
Milk	\$0.85			\$1.00		
Mistic	\$2.00			\$2.00		
Naked	\$4.00			\$4.00		
Silk	\$2.00			\$2.00		
Snapple	\$1.60			\$1.75		
Soda 20	\$1.50			\$1.75		
Stewarts	\$1.75			\$1.75		
Sunny D	\$2.00			\$2.00		
Tea	\$0.75			\$0.85		
Tropicana	\$2.00			\$2.25		
Twister	\$1.95			\$2.10		
Vitamin water	\$2.00			\$2.25		
Water	\$1.10			\$1.15		
BREAKFAST						
Bacon	\$0.50			\$0.60		
Bagel	\$1.00			\$1.10		

Cereal bowl	\$1.75	\$1.75
Cereal box	\$1.25	\$1.25
Cheese Omelet	\$2.75	\$2.90
Coffee roll	\$2.50	\$2.50
Cream Cheese	\$0.50	\$0.50
Donut	\$0.95	\$1.00
Egg (1)	\$0.60	\$0.65
Egg and Cheese Sandwich	\$1.90	\$2.00
English Muffin	\$0.95	\$1.00
French toast sticks	\$2.25	\$2.25
Grits	\$1.00	\$1.00
Hash brown pat	\$1.00	\$1.00
Home fries	\$1.50	\$2.00
Honey	\$0.50	\$0.50
Meat or Veggie Omelet	\$2.95	\$3.10
Milk	\$0.85	\$1.00
Muffins/Quick Bread	\$1.25	\$1.40
Oatmeal pack	\$1.00	\$1.00
Peanut but	\$0.50	\$0.50
Sausage patty	\$1.00	\$1.10
Toast	\$0.85	\$0.85
Tots	\$2.00	\$2.00
Whole fruit	\$1.00	\$1.00
egg sand with bacon or sausage	\$2.75	\$2.95
Yogurt	\$1.50	\$1.50
Yogurt Greek	\$3.00	\$3.00

LUNCH COUGARS

Bacon chburg	\$3.75	\$4.00
Bacon double chburg	\$5.90	\$6.00
Cheeseburg	\$3.15	\$3.30
Chic nuggets	\$3.25	\$3.50
Chic tenders	\$3.25	\$3.50
Chips	\$1.00	\$1.10
Curley fr	\$2.15	\$2.25
Deli sandwich	\$4.75	\$4.95
Dog	\$2.25	\$2.25
Double burger	\$4.50	\$4.75
Double chburg	\$5.30	\$5.45
Entrée	\$5.25	market price
Extra cheese	\$0.40	\$0.45
Fries	\$1.65	\$1.75
Hamburger	\$2.75	\$2.85
Pizza	\$1.95	\$2.05
Pizza meat	\$2.50	\$2.60
Pretzel	\$2.00	\$2.00
Salad Bar	\$0.37 oz.	\$0.45
Veg burger	\$3.50	\$3.50
Egg sandwich	\$1.90	\$2.00

Bagel	\$1.00			\$1.10		
Muffins	\$1.26			\$1.35		
Donut	\$0.95			\$1.00		
Cereal	\$1.75			\$1.75		
Garden Salad	\$5.50			\$5.95		
Chef Salad	\$5.50			\$5.95		
Chicken Cranberry Salad	\$5.50			\$5.95		
Sandwiches						
Roast Beef	\$4.75			\$4.95		
Tuna	\$4.75			\$4.95		
Chicken Salad	\$4.75			\$4.95		
Salami	\$4.75			\$4.95		
Turkey	\$4.75			\$4.95		
Ham	\$4.75			\$4.95		
Hamburg	\$3.50			\$3.65		
Hot Dog	\$2.25			\$2.25		
Pizza	\$1.95			\$2.05		
Cake	\$2.00			\$2.50		
Pie	\$2.00			\$2.50		
Pizza Meat	\$2.50			\$2.60		
Chicken Patty	\$3.50			\$3.65		
Cookie	\$0.60			\$0.65		
Starbucks coffee	\$1.40	\$1.70	\$1.90	\$1.50	\$1.85	\$2.15
Total	\$212.53	\$4.15	\$4.70	\$218.10	\$4.55	\$5.40

INCREASE %

3.00%

Ann Simeone
Contract Specialist

860-713-5051
Telephone Number

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION

165 Capitol Avenue, 5th Floor South

HARTFORD, CT 06106-1659

CONTRACT AWARD NO.:

09PSX0212

Contract Award Date:

15 September 2009

Proposal Due Date:

27 July 2009

SUPPLEMENT DATE:

10 November 2014

CONTRACT AWARD SUPPLEMENT #4

IMPORTANT: THIS IS NOT A PURCHASE ORDER. DO NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College in Manchester, CT

FOR:
Office of Higher Education

TERM OF CONTRACT:
December 17, 2009 through December 16, 2019

AGENCY REQUISITION NUMBER: 0000000135

CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE
		N/A	N/A

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CONTRACTOR INFORMATION:

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Company Name: **Lessing's Foodservice Management Corporation**

Company Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Tel. No.: **(631) 567-8200 NY or**

Fax No.: **(631) 567-8746**

Contract Value: **No Change**

(860) 212-8412 CT

Contact Person: **Scott McKelvey, CFO and Chip Loree General Mgr.**

Delivery: **As Required**

Contact Person Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Company E-mail Address and/or Company Web Site scott@lessings.com www.lessings.com

Remittance Address: *same as company address same as Company Address*

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **N/A**

PLEASE NOTE:

- Supplement being issued for the following:
 - Restatement of Agreement with changes to services and removal of language pertaining to Great Path Academy and GPA Satellite Kiosk;
 - Revised Exhibit B – Price Schedule
 - Extension of Contract Term through December 16, 2019

- All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.

APPROVED _____

CAROL WILSON

Procurement Director

(Original Signature on Document in Procurement Files)

SECOND AMENDMENT AGREEMENT
TO
CONTRACT BETWEEN
THE STATE OF CONNECTICUT
AND
LESSING'S FOODSERVICE MANAGEMENT CORPORATION
FOR
CATERING AND VENDING SERVICES FOR THE STUDENTS, FACULTY AND STAFF AT
MANCHESTER COMMUNITY COLLEGE IN MANCHESTER, CT

This Second Amendment Agreement (the "Amendment") is made as of the 29th day of October, 2014, by and between Lessing's Foodservice Management Corporation (the "Contractor"), with a principal place of business at 3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739, acting by John S. Lessing, Jr., its Executive Vice President, duly authorized, and the State of Connecticut, Department of Administrative Services ("DAS"), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut, acting by Carol Wilson, its Procurement Director, duly authorized, in accordance with Sections 4a-2(2), 4a-51, 4a-57 and 4a-59 of the Connecticut General Statutes.

WHEREAS, the State and the Contractor entered into an agreement dated 15 September 2009 for CATERING AND VENDING SERVICES FOR THE STUDENTS, FACULTY AND STAFF AT MANCHESTER COMMUNITY COLLEGE AND GREAT PATH ACADEMY IN MANCHESTER, CT, as amended on 27 October 2010 (the "Agreement"); and

WHEREAS the State and the Contractor desire again to amend the Agreement.

Now therefore, the Parties enter into this Second Amendment and Restatement of the Agreement. Beginning with Section 1, the Agreement is restated in its entirety as follows:

1. **Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:
 - (a) **Claims:** All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
 - (b) **Client Agency:** Any department, commission, board, bureau, agency, institution, public authority, office, council, association, instrumentality or political subdivision of the State of Connecticut, as applicable, who is authorized and chooses to make purchases under, and pursuant to the terms and conditions of, this Contract.
 - (c) **Confidential Information:** This shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Client Agency or DAS classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

- (d) Confidential Information Breach: This shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to Client Agency, the Contractor, DAS or State.
- (e) Contract: The agreement, as of its Effective Date, between the Contractor and the State for any or all Goods or Services at the Proposal price.
- (f) Contractor: A person or entity who submits a Proposal and who executes a Contract.
- (g) Contractor Parties: A Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
- (h) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
- (i) Force Majeure: Events that materially affect the cost of the Goods or Services or the time schedule within which to Perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
- (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
- (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.
- (l) Proposal: A submittal in response to a Request for Proposals.
- (m) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
- (n) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
- (o) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
- (p) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.

- (q) Termination: An end to the Contract prior to the end of its term whether effected pursuant to a right which the Contract creates or for a breach.
- (r) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
2. Term of Contract; Contract Extension. The Contract will be in effect from December 17, 2009 through December 16, 2019.
3. Description of Goods or Services and Additional Terms and Conditions. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
4. Price Schedule, Payment Terms and Billing, and Price Adjustments.
- (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B.
- (b) Payment Terms and Billing: Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and Performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.
- (c) If applicable to and during the term of this Contract, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur, as mandated by state law. The Price Schedule will not be adjusted until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in minimum wage rate.
- (d) Price Adjustments: Prices for the Goods or Services listed in Exhibit B shall remain unchanged for twelve (12) months following the Effective Date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the Effective Date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the Effective Date of the Contract.

The Contractor shall submit all requests in accordance with Section #35. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the Effective Date of the Contract, If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

5. Rejected Items; Abandonment.

- (a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods (“the “Rejected Goods”) and any or all other supplies, materials, equipment or other tangible personal property (collectively, the “Contractor Property”) from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties, that:
- (1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, “Title”) the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;
 - (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
 - (3) they vest authority, without any further act required on their part or the State’s part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State’s sole discretion, as if the Rejected Goods and Contractor Property were the State’s own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
 - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
 - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the “State and Its Agents”) of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State’s sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B. Subject to the sections in this Contract concerning Force Majeure, Termination and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B.
7. Contract Amendments.

No amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by both parties and, if applicable, approved by the Connecticut Attorney General.

8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Termination by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
9. Termination.
- (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.
- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving the notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from either DAS or the Client Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination from DAS, the Contractor shall cease operations as DAS directs in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) The Client Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A, in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Client Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by DAS or the Client Agency, as applicable, the Contractor shall assign to DAS or the Client Agency, or any replacement contractor which DAS or the Client Agency designates, all subcontracts, purchase orders and other commitments, deliver to DAS or the Client Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as DAS or the Client Agency may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor

or Contractor Parties or any third party.

- (g) Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
- (h) Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.
10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.
11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Termination date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may Terminate the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B.
12. Waiver.
- (a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.
- (b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.
13. Open Market Purchases. Failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Terminate the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not Performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Terminate the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client Agency deems it to be in the best interest of the State, the Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.
14. Purchase Orders.

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

15. Indemnification.

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
- (b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
- (c) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (d) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (e) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide (1) a certificate of insurance, (2) the declaration page and (3) the additional insured endorsement to the policy to the Client Agency prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor shall not begin Performance until the delivery of these 3 documents to the Client Agency. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.

(f) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

16. Forum and Choice of Law. The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.

19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.

20. Delivery.

- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.

- (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Contract.
- (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.
21. Goods Inspection. The Client Agency shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.
22. Emergency Standby for Goods and/or Services. If any Federal or State official, having authority to do so, declares an emergency or the occurrence of a natural disaster within the State of Connecticut, DAS and the Client Agency may request the Goods and Services on an expedited and prioritized basis. Upon receipt of such a request the Contractor shall make all necessary and appropriate commercially reasonable efforts to reallocate its staffing and other resources in order to give primary preference to Performing this Contract ahead of or prior to fulfilling, in whole or in part, any other contractual obligations that the Contractor may have. The Contractor is not obligated to make those efforts to Perform on an expedited and prioritized basis in accordance with this paragraph if doing so will make the Contractor materially breach any other contractual obligations that the Contractor may have. Contractor shall acknowledge receipt of any request made pursuant to this paragraph within 2 hours from the time that the Contractor receives it via purchase order or through a request to make an expedited or prioritized purchase through the State of Connecticut Purchasing Card (MasterCard) Program (the "P-Card Program"). If the Contractor fails to acknowledge receipt within 2 hours, confirm its obligation to Perform or actually Perform, as set forth in the purchase order or through the P-Card Program, then DAS and the Client Agency may procure the Performance from another source without further notice to Contractor and without creating any right of recourse at law or in equity against DAS or Client Agency.
23. Setoff. In addition to all other remedies available hereunder, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.
24. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.
25. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.
26. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Terminate the Contract if the Contractor fails to comply with the Act.

27. Representations and Warranties. The Contractor, represents and warrants to DAS for itself and Contractor Parties, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to Section 22a-194a concerning the use of polystyrene foam;
- (c) the execution, delivery and Performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Terminated;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no Claims involving Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to DAS in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;

- (k) their participation in the Request for Proposals process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (l) the Proposal was not made in connection or concert with any other person or entity, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Contractor, submitting a proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
- (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Contractor;
- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;
- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the Effective Date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;

- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

28. Representations and Warranties Concerning Motor Vehicles. If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1 (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, represents and warrants for itself and the Contractor Parties, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.
- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for motor vehicles having a gross vehicle weight rating of 18,000 pounds or more or motor vehicles otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations.

29. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.

30. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
31. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
32. Executive Orders. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
33. Non-discrimination.
- (a) For purposes of this Section, the following terms are defined as follows:
- (1) "Commission" means the Commission on Human Rights and Opportunities;
 - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
 - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
 - (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
 - (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
 - (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
 - (7) "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;

(8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;

(9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and

(10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b)

(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;

(2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;

(3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
- (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g)
- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the

Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and

(4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

(h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

34. Tangible Personal Property.

- (a) The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
- (1) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
 - (2) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
 - (3) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
 - (4) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
 - (5) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.
- (b) For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar

governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.

(c) The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of Chapter 219 of the Connecticut General Statutes, including, but not limited to, §12-411b.

35. Whistleblowing. This Contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

36. Notice. All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (for the purpose of this section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

State of Connecticut, Department of Administrative Services
165 Capitol Ave, 5th Floor South
Hartford, CT 06106-1659
Attention: Ann Simeone

If to the Contractor:

COMPANY NAME: Lessing's Foodservice Management Company

NAME: John S. Lessing, Jr.

ADDRESS Line 1: 3500 Sunrise Highway, Building 100, Suite 100

City, State and Zip: Great River, NY 11739

Attention: Company: Lessing's Food Service Management Company

Signatory Name: John S. Lessing, Jr.

Title: CFO

37. Insurance. Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Reserved

(b) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.

(c) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.

(d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

(e) Reserved

(f) Umbrella Liability: Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.

(g) Claims Made: Not acceptable with the exception of Professional Liability when specified.

(h) Reserved

38. Headings. The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.

39. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

40. Parties. To the extent that any Contractor Party is to participate or Perform in any way, directly or indirectly in connection with the Contract, any reference in the Contract to "Contractor" shall also be deemed to include "Contractor Parties", as if such reference had originally specifically included "Contractor Parties" since it is the parties' intent for the terms "Contractor Parties" to be vested with the same respective rights and obligations as the terms "Contractor."

41. Contractor Changes. The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:

a) its certificate of incorporation or other organizational document;

b) more than a controlling interest in the ownership of the Contractor; or

c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS's written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

42. Further Assurances. The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
43. Audit and Inspection of Plants, Places of Business and Records.
- (a) Audit and Inspection of Plants, Places of Business and Records. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
 - (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
 - (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
 - (d) All audits and inspections shall be at the State's expense.
 - (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Contract, or (ii) the expiration or earlier termination of this Contract, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
 - (f) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
 - (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.
44. Background Checks. The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Emergency Services and Public Protection Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as

necessary or reasonably requested with the State and its agents in connection with such background checks.

45. Continued Performance. The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
46. Working and Labor Synergies. The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.
47. Contractor Responsibility.
- (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
- (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.
48. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.
49. Confidential Information. The State will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Contractor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

50. References to Statutes, Public Acts, Regulations, Codes and Executive Orders. All references in this Contract to any statute, public act, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Contract that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Contract, this Contract shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public act, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Contract at the time of its execution.
51. Cross-Default.
- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under any or all other agreements or arrangements (“Other Agreements”) that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
- (b) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.
52. Disclosure of Records. This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.
53. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
54. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
55. Time of the Essence. Time is of the essence with respect to all provisions of this Contract that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Contract.
56. Certification as Small Contractor or Minority Business Enterprise.

This paragraph was intentionally left blank.

57. Campaign Contribution Restriction. For all State contracts as defined in Conn. Gen. Stat. § 9-612(g)(1) having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached as Exhibit C.
58. Health Insurance Portability and Accountability Act.
- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
 - (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
 - (c) The Client Agency is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
 - (d) The Contractor, on behalf of the Client Agency, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and
 - (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; and
 - (f) The Contractor and the Client Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
 - (g) Definitions. For the purposes of this Section of the Contract:
 - (1) "Breach" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).'
 - (2) "Business Associate" shall mean the or Contractor or Contractor Parties.
 - (3) "Covered Entity" shall mean the Client Agency.
 - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
 - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.

- (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
- (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
- (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
- (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
- (15) "Unsecured protected health information" shall have the same meaning as the term as defined in § 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.

- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees that at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not directly or indirectly receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach
- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b) and the provisions of this section of the contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. § 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.

- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor or Contractor Parties.
- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions.
- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the

person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (l)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall

apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1)Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2)Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3)Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4)Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5)Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6)Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7)Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

59. Protection of Confidential Information.

- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or

control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.

- (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of DAS or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
- (1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 - (2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - (3) A process for reviewing policies and security measures at least annually;
 - (4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
 - (5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- (c) The Contractor and Contractor Parties shall notify DAS, Client Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Client Agency and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from DAS, the Client Agency or any State of Connecticut entity or any affected individuals.
- (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of Covered Entity.

60. Audit Requirements for Recipients of State Financial Assistance.

This paragraph was intentionally left blank.

IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

LESSING'S FOODSERVICE MANAGEMENT CORPORATION

**STATE OF CONNECTICUT
Department of Administrative Services**

By: _____

By: _____

Name: John S. Lessing, Jr.
Print or Type Name

Name: Carol Wilson

Title: Executive Vice President

Title: Procurement Director

Date: _____

Date: _____

EXHIBIT A

Scope of Services

To provide high quality food, vending and catering services throughout the year, including Fall Semester, Intersession, Spring and Summer Semesters, extending from approximately the 1st week of September through the 2nd week of August for Summer. The cafeterias to be open as well as at other times when classes may not be in session but the college may be open.

Throughout this contract, Manchester Community College (MCC), and Cafes shall be referenced as “the College”.

Product and/or Service Specifications

Food Service Schedule

The College year is comprised of Fall Semester, Intersession, Spring and Summer Semesters. They extend from approximately: the 1st week of September through the 3rd week in December for Fall; the 4th week in December through the 2nd week in January for Intersession; the 3rd week in January through the 3rd week in May for Spring; and the 1st week in June to the 2nd week in August for Summer. This schedule does not prevent the Cafeteria from being open beyond the above mentioned time periods. Food service shall be provided in accordance with the following schedule.

Minimum Hours of Operation:

Cafeteria/Cougar's Cave

Fall and Spring Semesters (when classes are in session)

Mon – Thurs: doors opening for business promptly at 7:30 a.m. and not closing before 3:00 p.m.

At the beginning of the Fall semester, a special menu will be offered from 2:00 p.m. – 3:00 p.m.

Fri: doors opening promptly for business at 7:30 a.m. and not closing before 1:30 p.m.

Summer session – Limited schedule:

Mon – Fri: doors opening for business no later than 7:30am and not closing before 2:00pm

Intersession – Limited schedule:

Mon – Fri: doors opening for business no later than 7:30am and not closing before 1:30pm

When classes are not scheduled, but the College is open

Mon – Fri: doors opening for business no later than 7:30am and not closing before 1:30pm

AST Café

Fall and Spring Semesters (when classes are in session)

Mon – Thurs: doors opening for business promptly at 7:30am and not closing before 6:30pm

Fri: doors opening promptly for business at 7:30 am and not closing before 3:30pm

Summer session – Limited schedule:

Mon – Thurs: doors opening for business no later than 7:30am and not closing before 5:00pm

Fri: doors opening for business no later than 7:30 am and not closing before 3:30pm

Intersession – Limited schedule:

Monday – Friday: doors opening for business no later than 7:30am and not closing before 3:30pm

When classes are not scheduled, but the College is open

Mon – Fri. doors opening for business no later than 7:30am and not closing before 1:30pm

The cafeteria operation shall not be available whenever the College is officially closed for holidays, inclement weather or other conditions beyond the control of the college. The College reserves the right to expand or modify its class schedule as conditions warrant and the food service vendor shall be asked to provide cafeteria operations as appropriate.

Cafeteria Menu (aka Cougars' Cave)

At least **two** hot entrées at both breakfast and lunch are to be provided each day. At least one breakfast entree is to include fresh eggs. A selection of bacon, ham, pancakes or waffles shall also be offered for breakfast. Each lunch entree is to include at least one vegetable, with beef, poultry or fish and with potato, rice (or French fries) and salad. Salads shall be provided daily. A special menu will be offered from 2:00 p.m. to 3:00 p.m. The menu will include freshly made sandwiches, pizza and other "grab and go" types of food. The menu would be advertised in an effort to increase awareness on campus. Contractor will track the success of the special menu. Menu shall reflect a diverse population. Ethnic foods shall be made available daily. Healthy choices shall be made available daily. A list of the ethnic and healthy choice foods must be completed by the contractor and approved by the College and/or the State prior to the commencement of any sales and any price changes contemplated by the contractor (also see Section 3(d) and 10 of the Contract Document regarding pricing adjustments).

Café Menu

A selection of freshly made sandwiches and salads are to be provided each day. Coffee, soda, juices and various carbonated and non carbonated beverages, cookies/pastry, bagels, various breakfast and dessert items are to be available.

Child Development Center

The contractor agrees to provide snacks prepared and delivered daily to the Child Development Center. The proposal shall include the daily price per snack per child. The contractor shall invoice the College at the end of each month for the cost of providing daily snacks to the Child Development Center. Invoices to be sent to Manchester Community College, Attn; Accounts Payable, MS 10, PO Box 1046, Manchester, CT 06045-1046

Vending Service

Contractor shall provide a complete array of vending machines to supplement the manual cafeteria service. Contractor will provide a service, repair and response of 365 days per year and a response time and within a 4 hour window. The equipment will be maintained in excellent operating condition and along with prompt service and repair. Contractor will provide a VendWise™ Innovation Technology which will be equipped with optic sensors for bills (\$5 and \$1) and credit card readers with customized LCD screens allowing to communicate with machine users and the communication of low supply and/or necessary servicing. The machines will also be proactive to seek cost-effective and customized solutions to help protect our planet (this would also include timers). MasterCard and American Express credit card readers will allow for PayPass technology. In addition, contractor will provide Vitalities™ labeled machines displaying the refreshing variety of healthy snacks and beverage selections. Refunds shall be provided on site either immediately or after completion of a simple request for reimbursement of lost money form with the College designee.

Contractor will utilize a company-wide management system to facilitate all internal audit controls. Weekly reconciliation will occur and monthly account summaries itemizing merchandiser on site and totals sold and commission amounts.

Catering

Upon request, the contractor shall provide catering services for special events, programs and meetings for Manchester Community College, or outside groups using MCC facilities. The contractor is to include a sample catering menu with prices for review. As a part of the catering services, the contractor is to include delivery, serving and clean up services. All serving pieces, left over foods and trash associated with the catering services to be removed from the meeting room/area within 30 minutes of the close of the event. As part of the catering service offerings the contractor is to take into consideration the College's preference for 'Green' catering, as detailed in the attachment entitled "Green Catering Considerations" (see Attachment 2).

The contractor shall not have an exclusive on the catering at the College.

Catering Guidelines –

Contractor has a complete range of menus to meet the needs of the meetings, luncheons, dinners, receptions, barbecues and picnics.

All catered functions from this menu should be ordered and guaranteed a minimum of 5 working days in advance. Catered functions involving china or wait staff must be ordered a minimum of 10 working days in advance. There will be situations requiring immediate service and will respond to the best of abilities. Cancellation of an event will require reimbursement for any expenses incurred.

Pricing is on a per person basis, unless otherwise specified and includes disposable service (paper plates, cups, napkins and plastic utensils). Additional charges may apply when functions require china, linen, fresh flowers or service staff.

Minimum orders: all catered functions will be based on a minimum order for groups of 10 or more. Any exceptions to the counts shall be mutually agreed upon by the College and the Contractor. A special request for a custom menu can also be requested and mutually agreed upon by the College and the Contractor.

Food Service Staff

The contractor shall maintain an adequate staff of employees, during peak operation, to insure efficient, satisfactory and courteous operation of the contracted food service and shall provide qualified substitute personnel to fill vacancies as they occur. All employees furnished by the contractor must submit to periodic health exams as frequent and as stringent as may be required by the State of CT regulations; and must submit satisfactory evidence of compliance with all State and Federal Health Regulations. All Contractor's employees working at the College shall be required to submit to State and National criminal record checks (fingerprinting) within 10 days of employment. The Contractor is required to pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks. Decisions regarding the effect of a conviction or a pending charge upon the employee's employment or disqualification for employment or discharge at the College shall be made on a case by case basis under the Performance Monitoring section of the contract. All employees of the Contractor shall be considered to be solely in the Contractor's employ. All employees must be bondable and the Contractor accepts all liability of all employees that are not bonded. The Contractor shall be responsible for the proper conduct of all its personnel while on the premises. The Contractor agrees to remove any employee from this site whose conduct the State feels is detrimental to its best interest, and/or the best interest of the general public. Should the Contractor fail to remove such employee(s) as required above, or fail to furnish suitable and sufficient personnel for the proper performance of the work, the State shall prepare a report and be considered a validated report of poor performance and/or non-compliance. All Contractor employees must, at all times when on duty, be well groomed and properly attired so as to meet the approval of the College, State and Federal Health Regulations. The cost of providing appropriate attire and maintaining same shall be the responsibility of the Contractor. Food service personnel can park their vehicles in any student parking area.

Food purchases

The Contractor shall purchase all wholesale food products from known reputable suppliers. These Suppliers must meet State and Federal requirements regarding sanitary operations, transportation and procedures.

Food products supplied to the Contractor must meet the following general standards:

- Meat and meat products - USDA inspected for wholesomeness and graded for the highest quality.
- Poultry and poultry products from plants, which participate in USDA and/or State inspection programs.
- Eggs and egg products - shell eggs to meet Federal grading standards for highest quality. Supplies must be registered with the USDA. Processed egg products (liquid, frozen and dried) must bear the USDA inspection mark.
- Seafood and shellfish - from approved safe sources as per the FDA and National Shellfish Safety Program.
- Milk and dairy products - from government inspected sources. All milk must be pasteurized.
- Processed foods - must be purchased from known, reliable suppliers who handle items processed by reputable food processors.
- Clearly label all menu items that are prepared with or contain peanuts, peanut oil or any other nut products.
- No trans fat.

Food shall be prepared in compliance with State of Connecticut Health Code Standards for food service, sanitation, and hygiene. All food serving and storage temperatures shall be in compliance with State of Connecticut Health Code Standards.

The Contractor shall be responsible for the posting of menus and prices weekly. The Contractor must provide a copy of the menu and prices to the College 3-4 weeks prior to the actual menu week. The menu is subject to mutually agreed on changes. The Contractor shall furnish all food, personnel and operating supplies required for the proper function of the food service at the Contractor's sole expense. Contractor shall provide sufficient personnel to properly operate the food service facility. (*No alcoholic, intoxicating or narcotic food, beverage or substance whatever may be kept, sold or dispensed in or about the food service facilities or premises of the College by the contractor, his agents or employees.*) See Exhibit E for Standard Wage Rates.

The contractor shall have on staff and on site a Qualified Food Operator in accordance with section 19-138-42(-)(4), 648(j)(3), B49(t)(3) of the Public Health Code (see Exhibit F).

The Contractor, at his expense, shall be responsible for the cleanliness, sanitation and general maintenance of: all food service areas including, but not limited to, the kitchen and all of its equipment, storage, refrigerators, freezers, preparation areas, serving areas, dining areas during operational hours, storerooms, and office. This includes daily floor washing, vacuuming, polishing and cleaning of all surfaces, equipment large and small including but not limited to refrigerators, freezers, coolers, stoves, ovens, grill screens, hoods, grills, griddles, deep fryers, salad bars, food bars, microwaves, toasters, student/staff use microwaves in accordance with manufacturer's recommendations. Final cleaning shall be performed before leaving. This includes removing and cleaning garbage and/or spills from cafeteria tables and the cafeteria floor. The Contractor will also review the chemicals/cleaning supplies being utilized in their clean up to insure that clean up chores can be accomplished during the 2:00 p.m. – 3:00 p.m. time slot without the odors discouraging the purchase of food. The College's custodial staff shall do heavy duty cleaning of the floors in the dining areas.

The Contractor shall provide the college purchasing office with a detailed listing of small wares to be brought on campus for use in the cafeteria and café areas.

The Contractor, at his expense, shall be responsible for providing all single service items such as seasonings, condiments, sugar, paper cups, paper straws, paper plates, paper napkins, sanitary hats and gloves, etc., condiment and other single service item dispensers, all serving utensils, serving bowls, soda dispensing machines, etc.

All food and beverages served in the cafeteria (excluding vending items) shall be served on or in paper plates, paper cups and plastic utensils. Styrofoam/styrene plates/cups are not acceptable.

Trash Removal: Garbage and trash disposal shall be the responsibility of the College. However, the Contractor must deliver the trash and garbage generated in the entire food service area (including the cafeteria, and café areas) to the appropriate collection areas. This shall include any sorting of the trash and garbage required to participate in whatever recycling programs are designated by law and/or the College. The Contractor shall be responsible for the recycling and disposal of grease generated from their operations.

Décor:

The Contractor's responsibilities for décor at the locations shall be limited to: Providing condiment dispensers, soda dispensers, cream and milk dispensers, portable signage and other support equipment in accordance with plans and specifications submitted by the Contractor and approved by the College as to construction, location, color and/or finishes.

Program Evaluation

A College administrator shall meet quarterly with the Contractor to discuss cafeteria operations and mutual areas of concern. The Contractor shall provide a written quarterly report on Cafeteria, Catering and Food Service Operations including complaints, suggestions, comments, and changes made to the service provided. A format for those reports shall be established and mutually agreed during the transition process. Quarterly profit and loss statements must be submitted to the Director of Finance. All deliveries and invoices of food, equipment, supplies, etc., shall be made directly to the Contractor via College loading docks and elevators. The Contractor is expected to be responsive to suggestions from College Administration and patrons regarding food quality, service and availability, along with behavior of food service staff. The Contractor shall provide a vehicle for feedback and appropriate responses. The Contractor agrees to allow the following parties access to the kitchen and food service areas: Director of Facilities, Facilities Staff, Director of Finance and Administrative Services, Purchasing Staff, Hospitality Management Director, President or designee and DAS Procurement designee. No other personnel shall be permitted access to the kitchen and food service areas. The College staff must provide ID for access to kitchen area unless there is an emergency situation. The Contractor and the College Representatives agree that both parties shall have access to all locked/secure food service storage areas and equipment.

Cash Registers

Food Service Provider shall provide and maintain cash registers for the Cafeteria (two required) and AST Café (one required).

Communication Services:

The State shall provide one 1 phone line and one (1) data line. The Contractor shall be responsible for any additional telephone installation, telephone charges and all costs related to monthly data lines for computer and charge card access.

Special Terms and Conditions

The risk of loss, and the sole responsibility for all equipment together with all contents thereof, and other Contractor provided equipment and utensils shall be that of the Contractor and not the State. The Contractor shall be responsible for the removal of all Contractor equipment and utensils, within ten (10) days after the termination or expiration of the Agreement.

The Contractor shall be responsible for obtaining a restaurant license for each **cafeteria/café** location and shall maintain these licenses for the life of the contract. Under no conditions shall any amusement, pinball, "juke box", or electronic video game machines be installed anywhere on the premises by the Contractor. If, from time to time, students, faculty and administrative personnel of the College use the College dining room facilities for various College sponsored or recognized fund raising, community and social functions, and, in connection therewith, prepare food for sale to their fellow students, guests, etc., the Contractor agrees not to interfere with any such activities upon the premises, provided Contractor is given reasonable notice of the time and place thereof, by written memorandum to that effect.

Contractor's Employees

The Contractor is responsible for training his employees in the security requirements of the College, and shall be responsible for enforcing the security rules as they apply to his employees. In addition to any other security rules and regulations, the contractor shall inform his employees of the following: No guns, knives, or other dangerous weapons are allowed on State property. No illicit drugs or other prohibited substances, including alcohol, are allowed on State property.

The Contractor shall be responsible for prohibiting entrance to the kitchen and food service preparation areas by all unauthorized parties; including students, the public and unauthorized college employees. The use of State telephones is prohibited, except in an emergency situation or otherwise contracted in the agreement. The College shall furnish to the contractor all keys necessary to access the building. All keys remain the property of the College and shall not be duplicated by the contractor or any of his employees. All keys shall be returned to the College upon request. A charge shall be assessed for any keys not returned. Contractor shall assume cost of re-keying buildings if keys are lost or stolen by him or his employees. No contractor or his employees shall benefit financially or materially outside the scope of this contract. No contractor shall use State grounds, buildings or equipment to benefit financially or materially outside the scope of this contract. During periods of College vacations exceeding more than seven (7) days, perishable food items and food contained in refrigerators and freezers subject to freezer damage or spoilage shall be removed from the cafeteria and secured elsewhere by the food service vendor.

Rights reserved to the College

If, from time to time, student clubs, faculty and administration personnel of the College use the College dining facilities for various College sponsored, community and social functions, and in connection therewith, prepare foods for sale to their fellow students, guests, faculty or administration personnel, the Contractor agrees not to interfere with any such activities upon the premises. The State reserves the right to engage an outside caterer or food service provider for College and community functions but preference will be given to the awarded contractor. Said contractor shall not sublease any of the operations. In the event the student club, faculty or administration personnel desire to engage the Contractor to serve any such function, the Contractor shall be paid a reasonable rate. The State encourages the use of local ingredients whenever possible, and encourages a 'Green' approach to the provision of food services. The State reserves the right to authorize student sponsored clubs and organizations and other contracted vendors to provide catering services, and sell limited beverages and snacks.

Special or Catered Events: Employees may routinely arrange special events on campus requiring catering or food services. The Contractor, PRIOR to the work being done, must obtain a copy of the authorized requisition from the end user. If the Contractor provides the service without authorization, the College reserves the right to deny payment. All invoices for catered events shall be addressed to the Accounts Payable Department. When arrangements for special events are made, there shall be no deviation from regular service. Any arrangement secured without College approval is considered a personal expense between the Contractor and the requestor and must be billed directly to the individual or business. The Contractor shall be responsible for the repair or replacement cost of any damage to personal property caused by the use, misuse, or negligence of the Contractor or Contractor parties. The Contractor is responsible for reporting, in writing, within 48 hours the occurrence of damage to State property.

Energy Star Provision (per CGS 4a-67c)

Contractor shall provide vending machines that earn the ENERGY STAR seal and meet the ENERGY STAR® specifications for energy efficiency as outlined below. The vendor is encouraged to visit energystar.gov for complete product specifications and an updated list of qualifying products.

Equipment and appliances offered pursuant to this contract shall meet or exceed the federal energy conservation standards set forth in the Energy Policy and Conversation Act, 42 USC 6295, any federal regulations adopted there under, and shall meet or exceed the federal Energy Star standards established by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

Performance Monitoring:

Throughout the term of this agreement the State will monitor the performance of the Contractor. After receipt of a Vendor Performance Report, each specific incident will be addressed as follows:

After receipt of the first incident report the DAS-Procurement Contract Specialist will investigate contractual breaches or poor performance issues for the purpose of validating such complaints. The Contractor will be given a reasonable opportunity to cure the performance and compliance issues.

A second validated incident report of poor performance or noncompliance shall result in a conference involving the Contractor, and DAS Procurement. The Contractor will then be given a second opportunity to cure poor performance and compliance issues.

A third validated incident report of poor performance or noncompliance complaint may result in termination of the contract in accordance with Section 9 of Contract 09PSX0212. Permanent removal of the vending machines shall be accomplished by the Contractor within 30 days of the date of written notification of termination by the State.

Vendor Performance Reports (VPR's) are executed online. The Contractor shall create an account on the DAS Business Network within 10 days of contract award in order to review and respond to VPR's.

Quality of Meals Offered

College Cafeteria & Café

Offerings in the College Cafeteria (Cougar's Cave) shall include at least **two** hot entrées at both breakfast and lunch. one breakfast entree is to include fresh eggs and a selection of bacon, ham, pancakes or waffles. Each lunch entree is to include at least one vegetable, with beef, poultry or fish and a starch. Salads shall be provided daily. Menu shall reflect a diverse population. Ethnic foods shall be made available daily. Healthy choices shall be made available daily.

Café Menu

A selection of freshly made sandwiches and salads are to be provided each day. Coffee, soda, juices and various carbonated and non carbonated beverages, cookies/pastry, bagels, various breakfast and dessert items are to be available.

Child Development Center Snack

In order to comply with State of Connecticut licensing requirements for Day Care Centers, the Child Development Center must provide snacks which meet the meal pattern requirements established by the U.S. Department of Agriculture. These specify balanced snacks with minimum portion sizes. A four week cycle of menus must be planned each year with consultation from a Registered Dietician and input from the Child Development Center Director and Contractor. A sample of the menus is attached (see Exhibit F). Since these menus are available to parents, substitutions can be made with advanced notice of one week to the Child Development Center Director. Accommodation in menus must be made for children with dietary restrictions. Children receive a morning snack at 9:15 am and an afternoon snack at 3:00 pm. Meals must be delivered fresh at these times due to limited storage space in the Child Development Center. Enrollment at the Child Development Center is approximately 18 children per day, snacks to be provided morning and afternoon Monday – Thursday. Friday, morning snack only. In accordance with the U.S. Dietary Guidelines and principles of good nutrition for children, snacks shall provide a variety of fresh or lightly processed foods which are generally low in sugar, salt and fat. In some cases these principles may necessitate preparing food which is more appropriate for children than for the rest of the College community. Examples are: fresh raw vegetables and snacks such as sliced cheese and crackers and fresh fruit (see Exhibit F). Disposable eating utensils such as paper plates, paper cups, plastic forks and spoons, paper napkins and paper bowls shall be provided by the food service operator. Utensils to serve meals such as spatulas, slotted spoons, bowls and pans shall be provided for and cleaned by the Contractor.

“Fresh. Ideas. Served Daily”

The following is a sample of the snacks/full course feasts (including vegetarian preferences) that the contractor will utilize at this site:

a.m. Specials – hearty breakfast or continental or a simple breakfast – coffees to accompany fresh baked bagels, muffins & more

Soups, Stews, Chilies and Chowders –Angus Chili, 3-bean Chili, NE Clam Chowder, Smoking Chicken And Vegetable Stew, Cheesy Broccoli Soup & Old Fashioned Beef Barley

Chef's Creations – Pastas, Roasts, Meatloaf, Roasted Chicken & Turkey with all of the creative accompaniments

Made to Order – Tossed and Sauteed Fresh Stir-Fry, Healthful Omelets, Light and Airy Crepes and Other Authentic Ethnic Cuisine

The Deli, Salad and To Go – Fresh Abundant Salads, Over-stuffed Deli Sandwiches, Hand Cut Meatloaf Sandwiches, Assorted Gourmet Sandwiches, Wraps and Panini all made to order – Crunchy sides too
Appetizers, Snacks & Pick Me Ups – Mini-wraps, Crudités, Chips & Salsa, Express Picks, Yogurt Parfaits, Flavored Waters and Iced Caramel Macchiato
Pizza – Fresh Gourmet Pizzas, Veggie Lovers' Calzones and Authentic Stromboli's all around – a wide Variety of pastas and sauces
Grill – Fully dressed juicy burgers, fresh marinated Chicken Breast Filets, Portabella Mushroom, Healthful Garden Burgers and Bacon & Eggs all sizzling and served hot off the grill – fried favorites too
Beverages and Bakery – Sip a delicious cup of Gourmet Specialty Coffee, Green Tea, Hot Cocoa And a variety of refreshing beverages. Dessert from the Baker's oven

Vitalities™ - Menu Items Daily with Nutritional Content (choices for smart dining) – each offering Includes a display chart showing ingredients and nutrition facts
Menu items contain zero trans-fat

Holiday Promotional Menus – ex. “Health Fresh Start” for January; “Sweets & Flowers” for February; “Go Green” for March, etc.

Menu Pricing and Revenue Sharing:

The Contractor shall operate on a commission basis. A commission schedule is listed in Exhibit B Price Schedule. A statement of sales less sales tax shall be submitted to the College Business Office within ten (10) working days after the last day of each month. Complete cash registers receipts and bank deposit slips shall be made available on an as needed basis. All net dining and catering cash receipts will be deposited daily in a bank account. In return for the College providing the facilities and utilities, the food service vendor shall pay the College a monthly commission of sales less commission collected by the Contractor, including vending machine revenue. The commission shall be paid to the College within ten (10) working days after the last day of each month.

Staffing, Resumes and Human Resources Processes.

All of the Contractor's employees whether currently employed or hired in the future and assigned to Manchester Community College, shall be required to submit to State and National criminal record checks (fingerprinting) within 10 calendar days of employment. The Contractor shall provide detail on the method to be used for notifying the State and the College of any conviction or pending charge.

Contractor will be certain that Dining Center Manager or Chef Manager has the proven performance and management ability to meet the profile that together have been established for the dining program. Management candidates are interviewed by the key Contractor management which is an important step in the selection process. With the selected management candidate, the Contractor's Management Team will interview and select the opening service team. This important step will ensure the mutual satisfaction in the dining program. The Dining Center Manager or Chef Manager and his/her Area Operations Manager/GM will then be directly involved in the hiring and ongoing development of the dining program team. See Attachment 3 for the Organizational Chart to be used at this site.

A key objective of dining management is to establish and nurture effective communications to ensure optimal customer satisfaction and to become truly integrated with the organization.

Dining management will establish regular meetings with college designee to discuss matters such as continued customer satisfaction, financial performance, additional services required.

Sanitation & Quality Control:

It is the Contractor's policy to responsibility to maintain a spotless foodservice operation that exceeds the sanitation standards of Federal, State and local codes. The Contractor's policy includes a comprehensive in-house sanitation program focusing on employee education, implementation procedures and an inspection system to assure compliance.

ServeSafe, the National Institute for the Food Service Industry widely accepted sanitation course, shall be conducted semi-annually for its food service management personnel. This course provides the formula for proper food handling procedures, including purchasing, storage, preparation and service. Continual in-service training of the hourly employees within each unit is based upon the ServSafe Sanitation course. Among the subjects stressed are personal hygiene, contamination and food borne illness, proper food storage, protecting food during preparation and serving and correct cleaning and sanitizing procedures.

Transition Plan

The Grand Opening of the new dining service for College will take approximately 2-4 weeks from the date of award and pending the status of any equipment additions and/or upgrades agreed upon by both parties. The transition would follow the guidelines outlined below:

- Schedule/attend meeting with your liaison regarding transition and establish timeline
- Finalize and order capital and small equipment needs, if necessary
- Select Chef Manager by mutual agreement
- Interview and hire hourly staff
- Meet with Chef Manager and your liaison for interview and your approval of candidates for hire
- Establish product ship-receive dates
- Coordinate necessary electrical and plumbing requirements, in any
- Apply for health permit and insurances
- Establish initial menu plan and review with your liaison
- Send brief introduction of Contractor and Contractor's plans for the food service program to you for distribution to agency (if desired)
- Contact your liaison to re-review transition date and schedule
- Install necessary food service equipment
- Receive orders
- Final inventories of equipment if required
- Food production and tasting dry run
- Installation of merchandising materials and signage
- Prepare for opening (three successive days prior to official opening)
- Grand Opening

Attachment 2

“Green” catering and food service guidelines from the MCC Sustainability Team

Avoid the use of styrene or plastic plates. Substitute with reusable and/or recycled options.

Where ever possible recyclable or reusable container are to be used for serving dishes, utensils, and condiment containers.

Limit 'single serve' and excess wrapping where ever possible both on the serving line and in the procurement process.

Canned beverages are preferable over plastic or glass.

Recycling of paper, cardboard, bottles and cans is encouraged by appropriate containers and signage.

Utilize local food products where ever practical.

Vegetarian and Vegan offerings to be available

Consider composting options for food waste in kitchen operations.

Advertise the sustainable food choices and the waste prevention options.

Rev. PRICE SCHEDULE
RFP-16 Rev 05/08
Prev. Rev. 05/07

STATE OF CONNECTICUT
PROCUREMENT DIVISION
EXHIBIT B

RFP NO.:
09PSX0212

Ann Simeone
Contract Specialist

(860)713-5051
Telephone Number

PRICE SCHEDULE for RFP # 09PSX0212		DELIVERY: As Required	
Page 1 OF 1		TERMS: 45 days	CASH DISCOUNT: 0 % Days
		CONTRACTOR NAME: Lessing's Foodservice Management Corporation	

ITEM #	DESCRIPTION OF COMMODITY AND/OR SERVICES	UNIT OF MEASURE	PRICE
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The food service vendor agrees to pay Manchester Community College a monthly Commission on gross receipts from the following operations:			
1.	Lowe Cafeteria & AST Café operations	Commission Rate	4 %
	Vending Operations	Commission Rate	15 %
	Catering Operations	Commission Rate	5 %
2.	The food service vendor agrees to provide snacks prepared and delivered to the Child Development Center:	Daily Price per Child per snack	\$ 1.50



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(G)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract* or *state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions of solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil Penalties – Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties – Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."



DEFINITIONS

“State contractor” means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. “State contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Prospective state contractor” means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

“Prospective state contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Principal of a state contractor or prospective state contractor” means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

“State contract” means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. “State contract” does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

“State contract solicitation” means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

“Managerial or discretionary responsibilities with respect to a state contract” means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

“Dependent child” means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

“Solicit” means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

“Subcontractor” means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. “Subcontractor” does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Principal of a subcontractor” means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION

165 Capitol Avenue, 5th Floor South
HARTFORD, CT 06106-1659

Ann Simeone
Buyer Name
(860)713-5051
Buyer Phone Number

CONTRACT AWARD NO.:

09PSX0212

Contract Award Date:

15 September 2009

Proposal Due Date:

27 July 2009

SUPPLEMENT DATE:

13 December 2011

CONTRACT AWARD SUPPLEMENT #3

IMPORTANT: THIS IS NOT A PURCHASE ORDER. Do NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College and Great Path Academy in Manchester, CT

FOR:
Manchester Community College
60 Bidwell Street
Manchester, CT 06040

TERM OF CONTRACT / DELIVERY DATE REQUIRED:
December 17, 2009 through December 16, 2014
(Contract Extension Language Applies)

AGENCY REQUISITION NUMBER: 000000135

CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE
			N/A

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

NOTE: Dollar amounts listed next to each contractor are possible award amounts, however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

NOTICE TO AGENCIES: A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Lessings Foodservice Management Corporation**

Company Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Tel. No.: **(631) 567-8200 NY or
(860) 212-8412 CT**

Fax No.: **(631) 567-8746**

Contract Value: **No Change**

Contact Person: **Scott McKelvey, CFO and Chip Loree General Mgr.**

Delivery: **As Required**

Contact Person Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Company E-mail Address and/or Company Web Site scott@lessings.com www.lessings.com

Remittance Address: same as company address same as Company Address

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **N/A**

NOTE:

- Effective December 17, 2011, a 3.68% price increase has been approved for certain food items per the Contract Award Price Adjustment language. A schedule of these items is hereby attached.

- **All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.**

*APPROVED*_____

ANN SIMEONE

Contract Specialist

(Original Signature on Document in Procurement Files)

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK – SEE NEXT PAGE FOR SPECIFIC PRICING ON FOOD ITEMS

Manchester Community College

ITEMS	PORTIONS	SELLING PRICE	PROPOSED PRICING
BEVERAGES:			
Tropicana juice	10 oz	\$1.50	\$1.55
Tropicana seasons best	16 oz	\$1.95	\$2.00
Tropicana pure prem	16 oz	\$1.95	\$2.00
Poland Spring Water	16.9 oz	\$1.00	\$1.10
Coffee	8 oz	\$1.00	\$1.05
Coffee	12 oz	\$1.25	\$1.30
Coffee	16 oz	\$1.50	\$1.55
Tea	Bag	\$0.75	\$0.75
Gourmet Tea	Bag	\$0.75	\$0.75
Fountain	12 oz	\$1.00	\$1.00
Fountain	16 oz	\$1.15	\$1.15
Fountain	20 oz	\$1.25	\$1.25
Soda Bottles	20 oz	\$1.35	\$1.50
Stewarts	16 oz	\$1.75	\$1.75
Can Soda	12 oz	\$0.90	\$0.95
Milk	8 oz	\$0.75	\$0.85
Quick	16 oz	\$2.00	\$2.00
Snapple	16 oz	\$1.50	\$1.60
Twister	20 oz	\$1.95	\$1.95
Gatorade	20 oz	\$1.35	\$1.50
Vitiman waters	20 oz	\$2.00	\$2.00
Sparkling & Flavored Water	16-20 oz		
Energy Drinks	16-20 oz	\$3.00	\$3.00
Sunny D	16-20 oz	\$2.50	\$2.50
Mystic	20 oz	\$3.00	\$3.00
Sobe	20 oz	\$3.00	\$3.00
Naked Juice	20 oz	\$4.00	\$4.00
Sub Total		\$44.10	\$45.05
DESSERTS:			
Pie, Fruit	1/8 sl	\$1.75	\$1.75
Pie, Cream	1/8 sl	\$1.75	\$1.75
Pudding	6 oz	\$1.25	\$1.25
Jello	6 oz		
Cake Layered	1/16 sl	\$2.50	\$2.50
Specialty Cakes/Cheesecake	slice	\$2.50	\$2.50
Brownies	each	\$1.00	\$1.00
Cookie(Fresh baked)	each	\$0.55	\$0.60
Yogurt	8 oz	\$1.35	\$1.50
Fresh Fruit (Whole)	each	\$1.00	\$1.00
Fresh Fruit Cup	per oz	\$0.27	\$0.30
Sub Total		\$13.92	\$14.15
BREAKFAST:			
Muffins	each	\$1.25	\$1.25
Cinnamon Bun/Twist	each	\$1.95	\$1.95
Bagel	each	\$1.00	\$1.00
Toast or Hard Roll	2 slices	\$0.85	\$0.85
English Muffin	2 halves	\$0.95	\$0.95
1 Egg	each	\$0.55	\$0.60
2 Eggs	each	\$1.10	\$1.20
1 Egg on a Roll	each	\$1.40	\$1.50
W/Cheese	each	\$1.80	\$1.90
Omelette 2 Egg Cheese	each	\$2.50	\$2.75
Omelette 2 Egg With Meat or Veggie	each	\$2.75	\$2.95
French Toast	each	\$0.90	\$0.95
Breakfast Sandwich Special (2 strips bacon)	each	\$2.50	\$2.75
Donut	each	\$0.95	\$0.95
Cream Cheese/Peanut Butter	each	\$0.50	\$0.50
Cereal	1 box	\$1.25	\$1.25
Danish	each	\$1.95	\$1.95
Sub Total		\$24.15	\$25.25

SIDES:

Sausage	1 patty	\$1.00	\$1.00
Bacon	slice	\$0.50	\$0.50
Home fries	5 oz	\$1.00	\$1.00
Hashbrown	each	\$0.75	\$1.00
Onion Rings/ Seasoned Fries	5 oz	\$2.00	\$2.15
French Fries	5 oz	\$1.50	\$1.65
Vegetable Du Jour	5 oz	\$1.00	\$1.00
Chips	each	\$0.90	\$1.00
Tomato Slices	per order	\$0.40	\$0.40
Cheese Slice	each	\$0.40	\$0.40
Croissant	each	\$1.75	\$1.75
Sub Total		\$11.20	\$11.85

GRILL:

Hot Dog 8/1	each	\$2.00	\$2.25
Chili Cheese Dog	each	\$2.75	\$2.75
Garden Burger	1/4 lb	\$3.25	\$3.50
Garden Burger w/Cheese	1/4 lb	\$3.65	\$3.90
Chicken Burger	1/4 lb	\$3.25	\$3.50
Hamburger	1/4 lb	\$2.50	\$2.75
Cheeseburger	1/4 lb	\$2.90	\$3.15
Bacon Cheeseburger - two slices	1/4 lb	\$3.50	\$3.75

Grilled Cheese	3 Slices	\$2.75	\$2.75
Grilled Cheese with Tomato	3 + 2 Slices	\$3.15	\$3.15
Grilled Cheese with Bacon	3 + 3 bac	\$3.25	\$3.25
Tuna Melt	1/4 lb	\$4.50	\$4.75
Ham Melt	1/4 lb	\$4.50	\$4.75
BLT	4bac 2tom	\$4.50	\$4.75
Chicken Tenders	per oz		
Philly Steak and Cheese	6 oz	\$4.95	\$5.00
Sub Total		\$51.40	\$53.95

Egg Salad	4 ozs	\$4.50	\$4.75
Ham	4 ozs	\$4.50	\$4.75
Genoa Salami	4 ozs	\$4.50	\$4.75
Roast Turkey	4 ozs	\$4.50	\$4.75
Tuna Salad	4 ozs	\$4.50	\$4.75
Chicken Salad	4 ozs	\$4.50	\$4.75
Seafood Salad	4 ozs	\$4.50	\$4.75
Roast Beef	4 ozs	\$4.50	\$4.75
Chicken Breast	4 ozs	\$4.50	\$4.75
		\$40.50	\$42.75

SOUP and CHILLI

Soup	8 oz	\$1.50	\$1.60
Soup	12 oz	\$2.25	\$2.35
Sub Total		\$3.75	\$3.95

SALADS:

Specialty Salad	each	\$5.50	\$5.50
Chef Salad	each	\$5.50	\$5.50
Salad, Pasta and Specialty Bars	per oz	\$0.27	\$0.30
Chicken Ceasar	each	\$5.50	\$5.50
Sub Total		\$16.77	\$16.80

Pizza			
Cheese	each	\$1.95	\$1.95
Topping	each	\$2.50	\$2.50
Sub Total		\$4.45	\$4.45

Miscellaneous

Entrees and Specials	each	\$5.95	\$5.95
Sub Total		\$5.95	\$5.95
Grand Total		\$216.19	\$224.15

3.68%

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION

165 Capitol Avenue, 5th Floor South
HARTFORD, CT 06106-1659

Ann Simeone
Contract Specialist
(860)713-5051
Telephone Number

CONTRACT AWARD NO.:

09PSX0212

Contract Award Date:

15 September 2009

Bid Due Date:

27 July 2009

SUPPLEMENT DATE:

04 May 2011

CONTRACT AWARD SUPPLEMENT #2

IMPORTANT: THIS IS NOT A PURCHASE ORDER. Do NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College and Great Path Academy in Manchester, CT

FOR:
Manchester Community College
60 Bidwell Street
Manchester, CT 06040

TERM OF CONTRACT / DELIVERY DATE REQUIRED:
December 17, 2009 through December 16, 2014
(Contract Extension Language Applies)

AGENCY REQUISITION NUMBER: 0000000135

CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE
			N/A

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

NOTE: Dollar amounts listed next to each contractor are possible award amounts, however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

NOTICE TO AGENCIES: A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Lessings Foodservice Management Corporation**

Company Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Tel. No.: **(631) 567-8200 NY or**

Fax No.: **(631) 567-8746**

Contract Value: **No Change**

(860) 212-8412 CT

Contact Person: **Scott McKelvey, CFO and Chip Loree General Mgr.**

Delivery: **As Required**

Contact Person Address: **3500 Sunrise Highway, Building 100, Suite 100, Great River, NY 11739**

Company E-mail Address and/or Company Web Site scott@lessings.com www.lessings.com

Remittance Address: same as company address same as Company Address

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **N/A**

NOTE:

- The above-referenced company has been assigned this contract. The Vendor ID # 137083.
- All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.

APPROVED _____

ANN SIMEONE

Contract Specialist

(Original Signature on Document in Procurement Files)

STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION

165 Capitol Avenue, 5th Floor South
HARTFORD, CT 06106-1659

Ann Simeone
Buyer Name
(860)713-5051
Buyer Phone Number

CONTRACT AWARD NO.:

09PSX0212

Contract Award Date:

15 September 2009

Proposal Due Date:

27 July 2009

SUPPLEMENT DATE:

27 October 2010

CONTRACT AWARD SUPPLEMENT #1

IMPORTANT: THIS IS NOT A PURCHASE ORDER. Do NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College and Great Path Academy in Manchester, CT

FOR: Manchester Community College
60 Bidwell Street
Manchester, CT 06040

TERM OF CONTRACT / DELIVERY DATE REQUIRED:
December 17, 2009 through December 16, 2014
(Contract Extension Language Applies)

AGENCY REQUISITION NUMBER: 0000000135

CHANGE TO IN STATE (NON-SB) CONTRACT VALUE	CHANGE TO DAS-CERTIFIED SMALL BUSINESS CONTRACT VALUE	CHANGE TO OUT OF STATE CONTRACT VALUE	CHANGE TO TOTAL CONTRACT AWARD VALUE
N/A			N/A

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

NOTE: Dollar amounts listed next to each contractor are possible award amounts, however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

NOTICE TO AGENCIES: A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION.

(http://www.das.state.ct.us/Purchase/New_PurchHome/Busopp.asp)

Company Name: **Next Generation Vending and Food Service, Inc.**

Company Address: **5 Campanelli Circle, Suite 200, Canton, MA 02021**

Tel. No.: **(860) 632-0550**

Fax No.: **(860) 632-1840**

Contract Value: **\$2,000,000.00 (est)**

Contact Person: **Chip Loree**

Delivery: **As Required**

Contact Person Address: **155 Industrial Park Rd., Middletown, CT 06457**

Company E-mail Address and/or Company Web Site jberglund@nextgenerationone.com www.nextgenerationone.com

Remittance Address: same as company address

Certification Type (SBE, MBE, WBE or None): **None** Terms: **Net 45 Days** Agrees to Supply Political SubDivisions: **N/A**

NOTE:

- This Supplement is being issued to advise parties of the attached First Amendment Agreement changes to services referenced in Exhibit A effective immediately.
- All terms and conditions not otherwise affected by this supplement remain unchanged and in full force and effect.

APPROVED _____

Carol Wilson

Procurement Director

(Original Signature on Document in Procurement Files)

FIRST AMENDMENT AGREEMENT
TO
CONTRACT BETWEEN
THE STATE OF CONNECTICUT
AND
NEXT GENERATION VENDING AND FOOD SERVICE, INC.
FOR

CATERING AND VENDING SERVICES FOR THE STUDENTS, FACULTY AND STAFF AT
MANCHESTER COMMUNITY COLLEGE AND GREAT PATH ACADEMY IN MANCHESTER, CT

This First Amendment Agreement (the "Amendment") is made as of the 23th day of September, 2010, by and between Next Generation Vending And Food Service, Inc. (the "Contractor"), with a principal place of business at 5 Campanelli Circle, Suite 200 Canton, MA 02021, acting by Joseph Rogan, its COO, duly authorized, and the State of Connecticut, Department of Administrative Services ("DAS"), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut, acting by Carol Wilson, its Director, duly authorized, in accordance with Sections 4a-2(2), 4a-51, 4a-57 and 4a-59 of the Connecticut General Statutes.

WHEREAS, the State and the Contractor entered into an agreement dated 15 September 2009 for CATERING AND VENDING SERVICES FOR THE STUDENTS, FACULTY AND STAFF AT MANCHESTER COMMUNITY COLLEGE AND GREAT PATH ACADEMY IN MANCHESTER, CT; and

WHEREAS the State and the Contractor desire to amend the Agreement.

Now therefore, in consideration of these premises and mutual covenants and agreements, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Contractor and the State agree as follows:

1. To add a second sentence in the middle of an existing paragraph write the following under the heading "Cafeteria/Cougar's Cave" "At the beginning of the Fall semester, a special menu will be offered from 2:00 p.m. – 3:00 p.m." so that the section reads as follows:
Fall and Spring Semesters (when classes are in session) Mon – Thurs: doors opening for business promptly at 7:30 a.m. and not closing before 3:00 p.m. At the beginning of the Fall semester, a special menu will be offered from 2:00 p.m. – 3:00 p.m. Fri: doors opening promptly for business at 7:30 a.m. and not closing before 1:30 p.m.
2. To add several sentences after the fifth sentence of an existing paragraph write the following under the heading "Cafeteria Menu (aka Cougars' Cave)" "A special menu will be offered from 2:00 p.m. – 3:00 p.m. The menu will include freshly made sandwiches, pizza and other 'grab and go' types of food. The menu would be advertised in an effort to increase awareness on campus. Next Generation Vending and Food Service, Inc., will track the success of the special menu." so that the section reads as follows:
At least two hot entrées at both breakfast and lunch are to be provided each day. At least one breakfast entrée is to include fresh eggs. A selection of bacon, ham, pancakes or waffles shall also be offered for breakfast. Each lunch entree is to include at least one vegetable, with beef, poultry or fish and with potato, rice (or French fries) and salad. Salads shall be provided daily. A special menu will be offered from 2:00 p.m. to 3:00 p.m. The menu will include freshly made sandwiches, pizza and other 'grab and go' types of food. The menu would be advertised in an effort to increase awareness on campus. Next Generation Vending and Food Service, Inc., will track the success of the special menu. Menu shall reflect a diverse population. Ethnic foods shall be made available daily. Healthy choices shall be made available daily. A list of the ethnic and

healthy choice foods must be completed by the contractor and approved by the College and/or the State prior to the commencement of any sales and any price changes contemplated by the contractor (also see Section 3(d) and 10 of the Contract Document regarding pricing adjustments).

- 3. To add a fifth sentence of an existing paragraph write the following under the heading, "**Food products supplied to the Contractor must meet the following general standards**" "The contractor will also review the chemicals/cleaning supplies being utilized in their clean up to insure that the clean up chores can be accomplished during the 2:00 p.m. – 3:00 p.m. time slot without the odors discouraging the purchase of food." so that the section reads:

The Contractor, at his expense, shall be responsible for the cleanliness, sanitation and general maintenance of all food service areas including, but not limited to, the kitchen and all of its equipment, storage, refrigerators, freezers, preparation areas, serving areas, dining areas during operational hours, storerooms, and office. This includes daily floor washing, vacuuming, polishing and cleaning of all surfaces, equipment large and small including but not limited to refrigerators, freezers, coolers, stoves, ovens, grill screens, hoods, grills, griddles, deep fryers, salad bars, food bars, microwaves, toasters, student/staff use microwaves in accordance with manufacturer’s recommendations. Final cleaning shall be performed before leaving. This includes removing and cleaning garbage and/or spills from cafeteria tables and the cafeteria floor. The contractor will also review the chemicals/cleaning supplies being utilized in their clean up to insure that clean up chores can be accomplished during the 2:00 p.m. – 3:00 p.m. time slot without the odors discouraging the purchase of food. The College’s custodial staff shall do heavy duty cleaning of the floors in the dining areas.

- 4. All other terms and conditions not otherwise affected by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment through their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

NEXT GENERATION VENDING AND
FOOD SERVICE, INC.

STATE OF CONNECTICUT
Department Of Administrative Services

By: _____

By: _____

Joseph Rogan

Carol Wilson

Print or Type Name

Print or Type Name

Title: COO

Title: Director, Procurement Services

Date: _____

Date: _____

STATE OF CONNECTICUT
DEPARTMENT OF ADMINISTRATIVE SERVICES

CONTRACT AWARD NO.:
09PSX0212

Ann Simeone
Contract Specialist

PROCUREMENT DIVISION
165 Capitol Avenue, 5th Floor South

Contract Award Date:
15 September 2009

(860)713-5051
Telephone Number

HARTFORD, CT 06106-1659
(ORIGINAL CONTRACT NUMBER: ---)

RFP Due Date:
27 July 2009

CONTRACT AWARD
IMPORTANT: THIS IS NOT A PURCHASE ORDER. DO NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.

DESCRIPTION: Catering and Vending Services for the Students, Faculty and Staff at Manchester Community College and Great Path Academy in Manchester, CT

FOR:
Manchester Community College
60 Bidwell Street
Manchester, CT 06040

TERM OF CONTRACT / DELIVERY DATE REQUIRED:
December 17, 2009 through December 16, 2014

AGENCY REQUISITION NUMBER: 0000000135

IN STATE (NON-SB) CONTRACT VALUE	DAS CERTIFIED SMALL BUSINESS CONTRACT VALUE	OUT OF STATE CONTRACT VALUE	TOTAL CONTRACT AWARD VALUE
		\$2,000,000.00 (est)	\$2,000,000.00 (est)

NOTICE TO CONTRACTORS: This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

NOTE: Dollar amounts listed next to each contractor are possible award amounts, however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

NOTICE TO AGENCIES: A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

CASH DISCOUNTS: Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

PRICE BASIS: Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://www.das.state.ct.us/busopp.asp>)

Company Name: **Next Generation Vending and Food Service, Inc.**

Company Address: **5 Campanelli Circle, Suite 200, Canton, MA 02021**

Tel. No.: **(860) 632-0550**

Fax No.: **(860) 632-1840**

Contract Value: **\$2,000,000.00 (est)**

Contact Person: **Chip Loree**

Delivery: **As Required**

Contact Person Address: **155 Industrial Park Rd., Middletown, CT 06457**

Company E-mail Address and/or Company Web Site jberglund@nextgenerationone.com www.nextgenerationone.com

Remittance Address: *same as company address*

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **N/A**

APPROVED _____

Carol Wilson

Procurement Director

(Original Signature on Document in Procurement Files)

CONTRACT

09PSX0212

Between

THE STATE OF CONNECTICUT

Acting by its

DEPARTMENT OF ADMINISTRATIVE SERVICES

AND

Next Generation Vending and Food Service, Inc.

Awarded Contractor

FOR THE PURCHASE AND SALE OF
CATERING AND VENDING SERVICE FOR THE STUDENTS, FACULTY AND STAFF AT
MANCHESTER COMMUNITY COLLEGE AND GREAT PATH ACADEMY IN MANCHESTER, CT

September 1, 2009

Contract Award Date

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Contract # **09PSX0212**

RFP Contract Rev. 6/09 – Prev. Rev. 2/09

This Contract (the “Contract”) is made as of the 1st day of September, in the year 2009, by and between, Next Generation Vending and Food Service, Inc. (the “Contractor,”) with a principal place of business at 5 Campanelli Circle, Suite 200, Canton, MA 02021, acting by Joseph Rogan, its Chief Operating Officer/Chief Fiscal Officer and the State of Connecticut, Department of Administrative Services (“DAS”), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut 06106-1659, acting by Ann Simeone, its Contract Specialist, in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.

Now therefore, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Contractor and the State agree as follows:

1. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:
 - (a) Cancellation: An end to the Contract effected pursuant to a right which the Contract creates due to a breach.
 - (b) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
 - (c) Client Agency: Department of Higher Education
 - (d) Contract: The agreement, as of its effective date, between the Proposer and the State for any or all Goods or Services at the Proposal price.
 - (e) Contractor: A person or entity who submits a Proposal and who executes a Contract.
 - (f) Contractor Parties: A Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
 - (g) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
 - (h) Expiration: An end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
 - (i) Force Majeure: Events that materially affect the cost of the Goods or Services or the time schedule within which to Perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
 - (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
 - (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.

Contract # **09PSX0212**

RFP Contract Rev. 6/09 – Prev. Rev. 2/09

- (l) Proposal: A Proposer's submittal in response to a Request for Proposals.
- (m) Proposer Parties: A Proposer's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Proposer is in privity of oral or written contract and the Proposer intends for such other person or entity to Perform under the Contract in any capacity.
- (n) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
- (o) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
- (p) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
- (q) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.
- (r) Termination: An end to the Contract effected pursuant to a right which the Contract creates, other than for a breach.
- (s) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.

2. Term of Contract; Contract Extension. The Contract will be in effect from December 17, 2009 through December 16, 2014.

The State may extend this Contract in its sole discretion, prior to Termination, Expiration or Cancellation, one or more times for a combined total period not to exceed the complete length of the original term.

3. Description of Goods or Services. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
4. Price Schedule, Payment Terms and Billing, and Price Adjustments.

- (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B.
- (b) Payment Terms and Billing: Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.

- (c) If applicable to and during the term of this Contract, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur, as mandated by state law. The Price Schedule will not be adjusted until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in minimum wage rate.
- (d) Price Adjustments: Prices for the Goods or Services listed in Exhibit B shall remain unchanged for twelve (12) months following the effective date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the effective date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the effective date of the Contract.

The Contractor shall submit all requests in accordance with Section #35. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the effective date of the Contract. If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

5. Rejected Items; Abandonment.

- (a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties and Proposer Parties, that:

- (1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;

- (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
 - (3) they vest authority, without any further act required on their part or the State's part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State's sole discretion, as if the Rejected Goods and Contractor Property were the State's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
 - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
 - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "State and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party or Proposer Party, as appropriate, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B. Subject to the sections in this Contract concerning Force Majeure, Termination, Cancellation Expiration and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B.
 7. Contract Amendments. Except for extensions made in accordance with the section in this Contract concerning Term of Contract; Effective Date, no amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by both parties and, if applicable, approved by the Connecticut Attorney General.
 8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Cancellation by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
 9. Termination, Cancellation and Expiration.
 - (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of

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Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete Performance under the Contract prior to such date. The Contractor is not entitled to receive and the State is not obligated to tender to the Contractor any payments or reimbursements for anticipated or lost profits.

- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Cancel the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination or Cancellation via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving such notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination, Cancellation or Expiration of the Contract or fifteen (15) days after the Contractor receives a written request from DAS for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination or Cancellation from DAS, the Contractor shall cease operations as directed by DAS in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination or Cancellation, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) To the extent that the Client Agency has issued a purchase order prior to the notice of Termination and the Contractor has begun Performance against that purchase order in good faith, the Client Agency shall, within forty-five (45) days of having received an invoice from the Contractor for such Performance, pay or reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A. In addition, the Client Agency shall also pay or reimburse the Contractor for all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. Upon and as requested by the Client Agency or DAS and after consent of the Contractor's subcontractors, if any, and if their consent is required, the Contractor shall (1) assign to the Client Agency, or any replacement contractor which the Client Agency or DAS designates, all subcontracts, purchase orders and other commitments, (2) deliver to the Client Agency all Records and other information pertaining to its Performance, and (3) remove from State premises, whether leased or owned, all such equipment, waste material and rubbish related to its Performance, all as the Client Agency or DAS may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Cancel the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination, Cancellation or Expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination, Cancellation or

Expiration of the Contract. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination, Cancellation or Expiration to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(h) Termination or Cancellation of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.

10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Cancellation date, no further action shall be required of any party to effect the Cancellation as of the stated date. If the notice does not set forth an effective Contract Cancellation date, then the non-breaching party may Cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B.

12. Waiver.

(a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.

(b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.

13. Open Market Purchases. Except to the extent that the Contractor is performing within a right to cure period, failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Cancel the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Cancel the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client Agency deems it to be in the best interest of the State, the

Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.

14. Purchase Orders.

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

15. Indemnification.

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a Certificate of Insurance to

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DAS, except that the Contractor shall not provide a copy to DAS if the Client Agency is the State Department of Transportation, prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the Certificate of Insurance to DAS. Upon request of the Client Agency, the Contractor shall provide a Certificate of Insurance to the Client Agency.

- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

16. Forum and Choice of Law. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.

19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall

deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.

20. Delivery.

- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.
- (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Proposal.
- (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.

21. Goods Inspection. The Client Agency shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.

22. Setoff. In addition to all other remedies that DAS may have, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.

23. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.

24. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.

25. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Cancel the Contract if the Contractor fails to comply with the Act.

26. Representations and Warranties. The Contractor, and the Proposer, as appropriate, represent and warrant to DAS for itself, Contractor Parties and Proposer Parties, as appropriate, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Proposal and the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to 22a-194a concerning the use of polystyrene foam;
- (c) the execution, delivery and Performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Cancelled;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no Claims involving the Proposer, Proposer Parties, Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to DAS in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses,

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operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;

- (k) their participation in the Request for Proposals process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (l) the Proposal was not made in connection or concert with any other person, entity or Proposer, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Proposer, submitting a Proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
- (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Proposer;
- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates or Cancels the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;

- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the effective date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

27. Representations and Warranties Concerning Motor Vehicles. If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1(51) (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, and the Proposer, as appropriate, represent and warrant for itself, the Contractor Parties and Proposer Parties, as appropriate, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.

- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for motor vehicles having a gross vehicle weight rating of 18,000 pounds or more or motor vehicles otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations.
28. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
29. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
30. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
31. Executive Orders. The Contract is subject to the provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17th, 2006, concerning procurement of cleaning products and services, Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
32. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.
- (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including,

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- but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
 - (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
 - (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.
- (b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
 - (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
 - (1) Who are active in the daily affairs of the enterprise,
 - (2) who have the power to direct the management and policies of the enterprise and
 - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
 - (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
 - (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
 - (f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means

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of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

(2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56;

(4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

33. **Tangible Personal Property.** The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:

(a) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;

(b) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;

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- (c) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
- (d) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
- (e) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.

For purposes of this section of the Contract, the word “Affiliate” means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word “voting security” means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. “Voting security” includes a general partnership interest.

The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State’s contracting authority, such information as the State may require to ensure, in the State’s sole determination, compliance with the provisions of the Act.

- 34. **Whistleblowing.** This Agreement is subject to the provisions of §4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
- 35. **Notice.** All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (for the purpose of this section collectively called “Notices”) shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

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State of Connecticut, Department of Administrative Services
165 Capitol Ave, 5th Floor South
Hartford, CT 06106-1659
Attention: Ann Simeone

If to the Contractor:

COMPANY NAME: Next Generation Vending and Food Service, Inc.

NAME: Chip Loree

ADDRESS Line 1: 155 Industrial Park Road

ADDRESS Line 2: _____

City: Middletown State: CT Zip: 06457

Attention: Company: Next Generation Vending and Food Service, Inc.

Signatory Name: Joseph Rogan Title: COO/CFO

State of Connecticut Department of Administrative Services
165 Capitol Ave, 5th Floor South
Hartford, CT 06106-1659
Attention: Ann Simeone

36. **Insurance.** Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Reserved

(b) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.

(c) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.

(d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

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- (e) Reserved
- (f) **Umbrella Liability:** Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.
- (g) **Claims Made:** Not acceptable with the exception of Professional Liability when specified.

(h) Reserved

- 37. **Headings.** The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.
- 38. **Number and Gender.** Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.
- 39. **Parties.** To the extent that any Contractor Party or Proposer Party is to participate or Perform in any way, directly or indirectly in connection with the Proposal or the Contract, any reference in the Request for Proposals and the Contract to “Contractor” or “Proposer” shall also be deemed to include “Contractor Parties” or “Proposer Parties,” respectively, as if such reference had originally specifically included “Contractor Parties” or “Proposer Parties,” since it is the parties’ intent for the terms “Contractor Parties” and “Proposer Parties” to be vested with the same respective rights and obligations as the terms “Contractor” and “Proposer.”
- 40. **Contractor Changes.** The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:
 - a) its certificate of incorporation or other organizational document;
 - b) more than a controlling interest in the ownership of the Contractor; or
 - c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS’s satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS’s written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

- 41. **Further Assurances.** The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
- 42. **Audit and Inspection of Records.** The Contractor shall make all of its and the Contractor Parties’ Records available at all reasonable hours for audit and inspection by the State,

including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) Days prior to the requested date. All audits and inspections shall be at the State's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years from Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.

43. Background Checks. The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.
44. Continued Performance. The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
45. Working and Labor Synergies. The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.
46. Contractor Responsibility.
 - (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
 - (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.
47. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.
48. Confidential Information. The State will afford due regard to the Proposer's and Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Proposer or Contractor may not merely state generally that the materials are proprietary or confidential in nature and not,

therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Proposer or Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Proposer or Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

49. Interpretation. The Contract contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.

50. Cross-Default.

- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements (“Other Agreements”) that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
- (b) If the Contractor or Contractor Parties breach, default or in any way fail to perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.

51. Disclosure of Records. The Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this section, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be

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valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

52. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
53. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
54. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
55. Reserved
56. Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Ban. With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit C, SEEC Form 11.
57. Health Care Portability and Accountability Act of 1996 (“HIPAA”).
 - (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
 - (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
 - (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and

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- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions.
 - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).’
 - (2) “Business Associate” shall mean the Contractor.
 - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
 - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
 - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
 - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
 - (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
 - (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
 - (12) “This Section of the Contract” refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.

(14) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.

(15) “Unsecured protected health information” shall have the same meaning as the term as defined in § 13402(h)(1)(A) of HITECH Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.

- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees that at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not directly or indirectly receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach
 - (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b) and the provisions of this section of the contract.
 - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. § 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
 - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:

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1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and contact information for said official.

(D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

(E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

(1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(2) Specific Use and Disclosure Provisions.

(A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further

disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.

- (A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant

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to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

58. Encryption of Data.

- (a) Contractor and Contractor Parties, at its own expense, shall keep and maintain in an encrypted state any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture (EWTA). This shall be a continuing obligation for compliance with the EWTA standard as it may be amended or supplemented from time to time.
- (b) In the event of a breach of security or loss of State data, the Contractor and Contractor Parties shall notify the Client Agency which owns the data, DAS, the Connecticut Department of Information Technology and the Connecticut Office of the Attorney General as soon as practical but no later than 24 hours after the discovery or reason to believe such breach or loss that such data has been compromised through breach or loss.

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IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

[AWARDED CONTRACTOR]

STATE OF CONNECTICUT
Department of Administrative Services

By: _____

By: _____

Joseph Rogan

Carol Wilson

Print or Type Name

Print or Type Name

Title: COO/CFO

Title: Procurement Director

Date: _____

Date: _____

EXHIBIT A

Scope of Services

To provide high quality food, vending and catering services throughout the year, including Fall Semester, Intersession, Spring and Summer Semesters, extending from approximately the 1st week of September through the 2nd week of August for Summer. The charter high school Great Path Academy is in session from Aug 26 through June 11. The cafeterias to be open as well as at other times when classes may not be in session but the college and/or high school may be open.

Throughout this contract, Manchester Community College (MCC), Great Path Academy (GPA) and Cafes shall be referenced as “the College”.

Product and/or Service Specifications

Food Service Schedule

The College year is comprised of Fall Semester, Intersession, Spring and Summer Semesters. They extend from approximately: the 1st week of September through the 3rd week in December for Fall; the 4th week in December through the 2nd week in January for Intersession; the 3rd week in January through the 3rd week in May for Spring; and the 1st week in June to the 2nd week in August for Summer. The charter high school Great Path Academy is in session from Aug 26 through June 11. A detailed calendar showing holidays and school vacations is attached for reference (see Attachment 1). This schedule does not prevent the Cafeteria from being open beyond the above mentioned time periods. Food service shall be provided in accordance with the following schedule.

Minimum Hours of Operation:

Cafeteria/Cougar’s Cave

Fall and Spring Semesters (when classes are in session)

Mon – Thurs: doors opening for business promptly at 7:30am and not closing before 3:00pm

Fri: doors opening promptly for business at 7:30 am and not closing before 1:30pm

Summer session – Limited schedule:

Mon – Fri: doors opening for business no later than 7:30am and not closing before 2:00pm

Intersession – Limited schedule:

Mon – Fri: doors opening for business no later than 7:30am and not closing before 1:30pm

When classes are not scheduled, but the College is open

Mon – Fri: doors opening for business no later than 7:30am and not closing before 1:30pm

AST Café

Fall and Spring Semesters (when classes are in session)

Mon – Thurs: doors opening for business promptly at 7:30am and not closing before 6:30pm

Fri: doors opening promptly for business at 7:30 am and not closing before 3:30pm

Summer session – Limited schedule:

Mon – Thurs: doors opening for business no later than 7:30am and not closing before 5:00pm

Fri: doors opening for business no later than 7:30 am and not closing before 3:30pm

Interession – Limited schedule:

Monday – Friday: doors opening for business no later than 7:30am and not closing before 3:30pm

When classes are not scheduled, but the College is open

Mon – Fri. doors opening for business no later than 7:30am and not closing before 1:30pm

GPA Satellite Kiosk (located in the GPA/Lowe Corridor)

Fall and Spring Semesters (when classes are in session)

Mon – Thurs: kiosk opening for business promptly at 2:30pm and not closing before 6:30pm

Fri. closed

Summer session – Limited schedule:

Mon – Thurs: kiosk opening for business no later than 2:30pm and not closing before 5:00pm

Fri. closed

Interession – Limited schedule:

Monday – Thurs: kiosk opening for business no later than 2:30pm and not closing before 5:00pm

Friday closed

When classes are not scheduled, but the College is open

Satellite Location is closed

The cafeteria operation shall not be available whenever the College is officially closed for holidays, inclement weather or other conditions beyond the control of the college. The College reserves the right to expand or modify its class schedule as conditions warrant and the food service vendor shall be asked to provide cafeteria operations as appropriate.

Cafeteria Menu (aka Cougars' Cave)

At least **two** hot entrées at both breakfast and lunch are to be provided each day. At least one breakfast entree is to include fresh eggs. A selection of bacon, ham, pancakes or waffles shall also be offered for breakfast. Each lunch entree is to include at least one vegetable, with beef, poultry or fish and with potato, rice (or French fries) and salad. Salads shall be provided daily. Menu shall reflect a diverse population. Ethnic foods shall be made available daily. Healthy choices shall be made available daily. A list of the ethnic and healthy choice foods must be completed by the contractor and approved by the College and/or the State prior to the commencement of any sales and any price changes contemplated by the contractor (also see Section 3(d) and 10 of the Contract Document regarding pricing adjustments).

Café Menu

A selection of freshly made sandwiches and salads are to be provided each day. Coffee, soda, juices and various carbonated and non carbonated beverages, cookies/pastry, bagels, various breakfast and dessert items are to be available.

Child Development Center

The contractor agrees to provide snacks prepared and delivered daily to the Child Development Center. The proposal shall include the daily price per snack per child. The contractor shall invoice the College at the end of each month for the cost of providing daily snacks to the Child Development Center. Invoices to be sent to Manchester Community College, Attn; Accounts Payable, MS 10, PO Box 1046, Manchester, CT 06045-1046

Satellite Kiosk

Provide coffee/beverage and snack service as appropriate during the times listed.

Great Path Academy lunches

Refer to the Eligibility Manual for School Lunch Meals for detailed specifications on Lunch content and portion sizes (see Exhibit F). Invoices for lunches provided to Great Path Academy shall be submitted on a monthly basis to: Capitol Region Education Council, Food Services Program Coordinator, 111 Charter Oak Avenue, Hartford, CT 06106.

Vending Service

Contractor shall provide a complete array of vending machines to supplement the manual cafeteria service. Contractor will provide a service, repair and response of 365 days per year and a response time and within a 4 hour window. The equipment will be maintained in excellent operating condition and along with prompt service and repair. Contractor will provide a VendWise™ Innovation Technology which will be equipped with optic sensors for bills (\$5 and \$1) and credit card readers with customized LCD screens allowing to communicate with machine users and the communication of low supply and/or necessary servicing. The machines will also be proactive to seek cost-effective and customized solutions to help protect our planet (this would also include timers, however, Great Path Academy area vending shall be specific to 2:30 p.m. through 10:30 p.m. only). MasterCard and American Express credit card readers will allow for PayPass technology. In addition, contractor will provide Vitalities™ labeled machines displaying the refreshing variety of healthy snacks and beverage selections. Refunds shall be provided on site either immediately or after completion of a simple request for reimbursement of lost money form with the College designee.

Contractor will utilize a company-wide management system to facilitate all internal audit controls. Weekly reconciliation will occur and monthly account summaries itemizing merchandiser on site and totals sold and commission amounts.

Catering

Upon request, the contractor shall provide catering services for special events, programs and meetings for Manchester Community College, Great Path Academy or outside groups using MCC or GPA facilities. The contractor is to include a sample catering menu with prices for review. As a part of the catering services, the contractor is to include delivery, serving and clean up services. All serving pieces, left over foods and trash associated with the catering services to be removed from the meeting room/area within 30 minutes of the close of the event. As part of the catering service offerings the contractor is to take into consideration the College's preference for 'Green' catering, as detailed in the attachment entitled "Green Catering Considerations" (see Attachment 2).

The contractor shall not have an exclusive on the catering at the College.

Catering Guidelines –

Contractor has a complete range of menus to meet the needs of the meetings, luncheons, dinners, receptions, barbecues and picnics.

All catered functions from this menu should be ordered and guaranteed a minimum of 5 working days in advance. Catered functions involving china or wait staff must be ordered a minimum of 10 working days in advance. There will be situations requiring immediate service and will respond to the best of abilities. Cancellation of an event will require reimbursement for any expenses incurred.

Pricing is on a per person basis, unless otherwise specified and includes disposable service (paper plates, cups, napkins and plastic utensils). Additional charges may apply when functions require china, linen, fresh flowers or service staff.

Minimum orders: all catered functions will be based on a minimum order for groups of 10 or more. Any exceptions to the counts shall be mutually agreed upon by the College and the Contractor. A special request for a custom menu can also be requested and mutually agreed upon by the College and the Contractor.

Food Service Staff

The contractor shall maintain an adequate staff of employees, during peak operation, to insure efficient, satisfactory and courteous operation of the contracted food service and shall provide qualified substitute

personnel to fill vacancies as they occur. All employees furnished by the contractor must submit to periodic health exams as frequent and as stringent as may be required by the State of CT regulations; and must submit satisfactory evidence of compliance with all State and Federal Health Regulations. All Contractor's employees working at the College shall be required to submit to State and National criminal record checks (fingerprinting) within 10 days of employment. The Contractor is required to pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks. Decisions regarding the effect of a conviction or a pending charge upon the employee's employment or disqualification for employment or discharge at the College shall be made on a case by case basis under the Performance Monitoring section of the contract. All employees of the Contractor shall be considered to be solely in the Contractor's employ. All employees must be bondable and the Contractor accepts all liability of all employees that are not bonded. The Contractor shall be responsible for the proper conduct of all its personnel while on the premises. The Contractor agrees to remove any employee from this site whose conduct the State feels is detrimental to its best interest, and/or the best interest of the general public. Should the Contractor fail to remove such employee(s) as required above, or fail to furnish suitable and sufficient personnel for the proper performance of the work, the State shall prepare a report and be considered a validated report of poor performance and/or non-compliance. All Contractor employees must, at all times when on duty, be well groomed and properly attired so as to meet the approval of the College, State and Federal Health Regulations. The cost of providing appropriate attire and maintaining same shall be the responsibility of the Contractor. Food service personnel can park their vehicles in any student parking area.

Food purchases

The Contractor shall purchase all wholesale food products from known reputable suppliers. These Suppliers must meet State and Federal requirements regarding sanitary operations, transportation and procedures.

Food products supplied to the Contractor must meet the following general standards:

- Meat and meat products - USDA inspected for wholesomeness and graded for the highest quality.
- Poultry and poultry products from plants, which participate in USDA and/or State inspection programs.
- Eggs and egg products - shell eggs to meet Federal grading standards for highest quality. Supplies must be registered with the USDA. Processed egg products (liquid, frozen and dried) must bear the USDA inspection mark.
- Seafood and shellfish - from approved safe sources as per the FDA and National Shellfish Safety Program.
- Milk and dairy products - from government inspected sources. All milk must be pasteurized.
- Processed foods - must be purchased from known, reliable suppliers who handle items processed by reputable food processors.
- Clearly label all menu items that are prepared with or contain peanuts, peanut oil or any other nut products.
- No trans fat.

Food shall be prepared in compliance with State of Connecticut Health Code Standards for food service, sanitation, and hygiene. All food serving and storage temperatures shall be in compliance with State of Connecticut Health Code Standards.

The Contractor shall be responsible for the posting of menus and prices weekly. The Contractor must provide a copy of the menu and prices to the College 3-4 weeks prior to the actual menu week. The menu is subject to mutually agreed on changes. The Contractor shall furnish all food, personnel and operating supplies required for the proper function of the food service at the Contractor's sole expense. Contractor shall provide sufficient personnel to properly operate the food service facility. (*No alcoholic, intoxicating or narcotic food, beverage or substance whatever may be kept, sold or dispensed in or about the food service facilities or premises of the College by the contractor, his agents or employees.*) See Exhibit E for Standard Wage Rates.

The contractor shall have on staff and on site a Qualified Food Operator in accordance with section 19-138-42(-)(4), 648(j)(3), B49(t)(3) of the Public Health Code (see Exhibit F).

The Contractor, at his expense, shall be responsible for the cleanliness, sanitation and general maintenance of: all food service areas including, but not limited to, the kitchen and all of its equipment, storage, refrigerators, freezers, preparation areas, serving areas, dining areas during operational hours, storerooms, and office. This includes daily floor washing, vacuuming, polishing and cleaning of all surfaces, equipment large and small

including but not limited to refrigerators, freezers, coolers, stoves, ovens, grill screens, hoods, grills, griddles, deep fryers, salad bars, food bars, microwaves, toasters, student/staff use microwaves in accordance with manufacturer's recommendations. Final cleaning shall be performed before leaving. This includes removing and cleaning garbage and/or spills from cafeteria tables and the cafeteria floor. The College's custodial staff shall do heavy duty cleaning of the floors in the dining areas.

The Contractor shall provide the college purchasing office with a detailed listing of small wares to be brought on campus for use in the cafeteria, café and kiosk areas.

The Contractor, at his expense, shall be responsible for providing all single service items such as seasonings, condiments, sugar, paper cups, paper straws, paper plates, paper napkins, sanitary hats and gloves, etc., condiment and other single service item dispensers, all serving utensils, serving bowls, soda dispensing machines, etc.

All food and beverages served in the cafeteria (excluding vending items) shall be served on or in paper plates, paper cups and plastic utensils. Styrofoam/styrene plates/cups are not acceptable.

Trash Removal: Garbage and trash disposal shall be the responsibility of the College. However, the Contractor must deliver the trash and garbage generated in the entire food service area (including the cafeteria, café and kiosk areas) to the appropriate collection areas. This shall include any sorting of the trash and garbage required to participate in whatever recycling programs are designated by law and/or the College. The Contractor shall be responsible for the recycling and disposal of grease generated from their operations.

Décor:

The Contractor's responsibilities for décor at the locations shall be limited to: Providing condiment dispensers, soda dispensers, cream and milk dispensers, portable signage and other support equipment in accordance with plans and specifications submitted by the Contractor and approved by the College as to construction, location, color and/or finishes.

Program Evaluation

A College administrator shall meet quarterly with the Contractor to discuss cafeteria operations and mutual areas of concern. The Contractor shall provide a written quarterly report on Cafeteria, Catering and Food Service Operations including complaints, suggestions, comments, and changes made to the service provided. A format for those reports shall be established and mutually agreed during the transition process. Quarterly profit and loss statements must be submitted to the Director of Finance. All deliveries and invoices of food, equipment, supplies, etc., shall be made directly to the Contractor via College loading docks and elevators. The Contractor is expected to be responsive to suggestions from College Administration and patrons regarding food quality, service and availability, along with behavior of food service staff. The Contractor shall provide a vehicle for feedback and appropriate responses. The Contractor agrees to allow the following parties access to the kitchen and food service areas: Director of Facilities, Facilities Staff, Director of Finance and Administrative Services, Purchasing Staff, Hospitality Management Director, President or designee and DAS Procurement designee. No other personnel shall be permitted access to the kitchen and food service areas. The College staff must provide ID for access to kitchen area unless there is an emergency situation. The Contractor and the College Representatives agree that both parties shall have access to all locked/secure food service storage areas and equipment.

Cash Registers

Food Service Provider shall provide and maintain cash registers for the Lowe Cafeteria (two required), AST Café (one required) and kiosk area (one required).

Communication Services:

The State shall provide one 1 phone line and one (1) data line. The Contractor shall be responsible for any additional telephone installation, telephone charges and all costs related to monthly data lines for computer and charge card access.

Special Terms and Conditions

The risk of loss, and the sole responsibility for all equipment together with all contents thereof, and other Contractor provided equipment and utensils shall be that of the Contractor and not the State. The Contractor shall be responsible for the removal of all Contractor equipment and utensils, within ten (10) days after the termination or expiration of the Agreement.

The Contractor shall be responsible for obtaining a restaurant license for each **cafeteria/café/kiosk** location and shall maintain these licenses for the life of the contract. Under no conditions shall any amusement, pinball, "juke box", or electronic video game machines be installed anywhere on the premises by the Contractor. If, from time to time, students, faculty and administrative personnel of the College use the College dining room facilities for various College sponsored or recognized fund raising, community and social functions, and, in connection therewith, prepare food for sale to their fellow students, guests, etc., the Contractor agrees not to interfere with any such activities upon the premises, provided Contractor is given reasonable notice of the time and place thereof, by written memorandum to that effect.

Contractor's Employees

The Contractor is responsible for training his employees in the security requirements of the College, and shall be responsible for enforcing the security rules as they apply to his employees. In addition to any other security rules and regulations, the contractor shall inform his employees of the following: No guns, knives, or other dangerous weapons are allowed on State property. No illicit drugs or other prohibited substances, including alcohol, are allowed on State property.

The Contractor shall be responsible for prohibiting entrance to the kitchen and food service preparation areas by all unauthorized parties; including students, the public and unauthorized college employees. The use of State telephones is prohibited, except in an emergency situation or otherwise contracted in the agreement. The College shall furnish to the contractor all keys necessary to access the building. All keys remain the property of the College and shall not be duplicated by the contractor or any of his employees. All keys shall be returned to the College upon request. A charge shall be assessed for any keys not returned. Contractor shall assume cost of re-keying buildings if keys are lost or stolen by him or his employees. No contractor or his employees shall benefit financially or materially outside the scope of this contract. No contractor shall use State grounds, buildings or equipment to benefit financially or materially outside the scope of this contract. During periods of College vacations exceeding more than seven (7) days, perishable food items and food contained in refrigerators and freezers subject to freezer damage or spoilage shall be removed from the cafeteria and secured elsewhere by the food service vendor.

Rights reserved to the College

If, from time to time, student clubs, faculty and administration personnel of the College use the College dining facilities for various College sponsored, community and social functions, and in connection therewith, prepare foods for sale to their fellow students, guests, faculty or administration personnel, the Contractor agrees not to interfere with any such activities upon the premises. The State reserves the right to engage an outside caterer or food service provider for College and community functions but preference will be given to the awarded contractor. Said contractor shall not sublease any of the operations. In the event the student club, faculty or administration personnel desire to engage the Contractor to serve any such function, the Contractor shall be paid a reasonable rate. The State encourages the use of local ingredients whenever possible, and encourages a 'Green' approach to the provision of food services. The State reserves the right to authorize student sponsored clubs and organizations and other contracted vendors to provide catering services, and sell limited beverages and snacks.

Special or Catered Events: Employees may routinely arrange special events on campus requiring catering or food services. The Contractor, PRIOR to the work being done, must obtain a copy of the authorized requisition from the end user. If the Contractor provides the service without authorization, the College reserves the right to deny payment. All invoices for catered events shall be addressed to the Accounts Payable Department. When arrangements for special events are made, there shall be no deviation from regular service. Any arrangement secured without College approval is considered a personal expense between the Contractor and the requestor and must be billed directly to the individual or business. The Contractor shall be responsible for the repair or replacement cost of any damage to personal property caused by the use, misuse, or negligence of the

Contractor or Contractor parties. The Contractor is responsible for reporting, in writing, within 48 hours the occurrence of damage to State property.

Energy Star Provision (per CGS 4a-67c)

Contractor shall provide vending machines that earn the ENERGY STAR seal and meet the ENERGY STAR® specifications for energy efficiency as outlined below. The vendor is encouraged to visit energystar.gov for complete product specifications and an updated list of qualifying products.

Equipment and appliances offered pursuant to this contract shall meet or exceed the federal energy conservation standards set forth in the Energy Policy and Conversation Act, 42 USC 6295, any federal regulations adopted there under, and shall meet or exceed the federal Energy Star standards established by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

Performance Monitoring:

Throughout the term of this agreement the State will monitor the performance of the Contractor. After receipt of a Vendor Performance Report, each specific incident will be addressed as follows:

After receipt of the first incident report the DAS-Procurement Contract Specialist will investigate contractual breaches or poor performance issues for the purpose of validating such complaints. The Contractor will be given a reasonable opportunity to cure the performance and compliance issues.

A second validated incident report of poor performance or noncompliance shall result in a conference involving the Contractor, and DAS Procurement. The Contractor will then be given a second opportunity to cure poor performance and compliance issues.

A third validated incident report of poor performance or noncompliance complaint may result in termination of the contract in accordance with Section 9 of Contract 09PSX0212. Permanent removal of the vending machines shall be accomplished by the Contractor within 30 days of the date of written notification of termination by the State.

Vendor Performance Reports (VPR's) are executed online. The Contractor shall create an account on the DAS Business Network within 10 days of contract award in order to review and respond to VPR's.

Quality of Meals Offered

College Cafeteria & Café

Offerings in the College Cafeteria (Cougar's Cave) shall include at least **two** hot entrées at both breakfast and lunch. one breakfast entree is to include fresh eggs and a selection of bacon, ham, pancakes or waffles. Each lunch entree is to include at least one vegetable, with beef, poultry or fish and a starch. Salads shall be provided daily. Menu shall reflect a diverse population. Ethnic foods shall be made available daily. Healthy choices shall be made available daily.

Café Menu

A selection of freshly made sandwiches and salads are to be provided each day. Coffee, soda, juices and various carbonated and non carbonated beverages, cookies/pastry, bagels, various breakfast and dessert items are to be available.

Great Path Academy

The Contractor shall provide to Great Path Academy standard cold lunches. The following method(s) shall be used for providing the lunch service to the Great Path Academy, by one of the two methods (based on waves):

Option 1: Lunches (approx 180) to be premade and delivered to the GPA internet café at the times specified;

Option 2: Approx 120 GPA students to be provided lunches in the (Cougars' Cave) Cafeteria either as lunch

'waves' separate from students/faculty/staff of the College or at the same time as the College students/faculty/staff

Child Development Center Snack

In order to comply with State of Connecticut licensing requirements for Day Care Centers, the Child Development Center must provide snacks which meet the meal pattern requirements established by the U.S. Department of Agriculture. These specify balanced snacks with minimum portion sizes. A four week cycle of menus must be planned each year with consultation from a Registered Dietician and input from the Child Development Center Director and Contractor. A sample of the menus is attached (see Exhibit F). Since these menus are available to parents, substitutions can be made with advanced notice of one week to the Child Development Center Director. Accommodation in menus must be made for children with dietary restrictions. Children receive a morning snack at 9:15 am and an afternoon snack at 3:00 pm. Meals must be delivered fresh at these times due to limited storage space in the Child Development Center. Enrollment at the Child Development Center is approximately 18 children per day, snacks to be provided morning and afternoon Monday – Thursday. Friday, morning snack only. In accordance with the U.S. Dietary Guidelines and principles of good nutrition for children, snacks shall provide a variety of fresh or lightly processed foods which are generally low in sugar, salt and fat. In some cases these principles may necessitate preparing food which is more appropriate for children than for the rest of the College community. Examples are: fresh raw vegetables and snacks such as sliced cheese and crackers and fresh fruit (see Exhibit F). Disposable eating utensils such as paper plates, paper cups, plastic forks and spoons, paper napkins and paper bowls shall be provided by the food service operator. Utensils to serve meals such as spatulas, slotted spoons, bowls and pans shall be provided for and cleaned by the Contractor.

“Fresh. Ideas. Served Daily”

The following is a sample of the snacks/full course feasts (including vegetarian preferences) that the contractor will utilize at this site:

a.m. Specials – hearty breakfast or continental or a simple breakfast – coffees to accompany fresh baked bagels, muffins & more
Soups, Stews, Chilies and Chowders – Angus Chili, 3-bean Chili, NE Clam Chowder, Smoking Chicken And Vegetable Stew, Cheesy Broccoli Soup & Old Fashioned Beef Barley
Chef's Creations – Pastas, Roasts, Meatloaf, Roasted Chicken & Turkey with all of the creative accompaniments
Made to Order – Tossed and Sauteed Fresh Stir-Fry, Healthful Omelets, Light and Airy Crepes and Other Authentic Ethnic Cuisine
The Deli, Salad and To Go – Fresh Abundant Salads, Over-stuffed Deli Sandwiches, Hand Cut Meatloaf Sandwiches, Assorted Gourmet Sandwiches, Wraps and Panini all made to order – Crunchy sides too
Appetizers, Snacks & Pick Me Ups – Mini-wraps, Crudités, Chips & Salsa, Express Picks, Yogurt Parfaits, Flavored Waters and Iced Caramel Macchiato
Pizza – Fresh Gourmet Pizzas, Veggie Lovers' Calzones and Authentic Stromboli's all around – a wide Variety of pastas and sauces
Grill – Fully dressed juicy burgers, fresh marinated Chicken Breast Filets, Portabella Mushroom, Healthful Garden Burgers and Bacon & Eggs all sizzling and served hot off the grill – fried favorites too
Beverages and Bakery – Sip a delicious cup of Gourmet Specialty Coffee, Green Tea, Hot Cocoa
And a variety of refreshing beverages. Dessert from the Baker's oven

Vitalities™ - Menu Items Daily with Nutritional Content (choices for smart dining) – each offering
Includes a display chart showing ingredients and nutrition facts
Menu items contain zero trans-fat

Holiday Promotional Menus – ex. “Health Fresh Start” for January; “Sweets & Flowers” for February; “Go Green” for March, etc.

Menu Pricing and Revenue Sharing:

The Contractor shall operate on a commission basis. A commission schedule is listed in Exhibit B Price Schedule. A statement of sales less sales tax shall be submitted to the College Business Office within ten (10) working days after the last day of each month. Complete cash registers receipts and bank deposit slips shall be made available on an as needed basis. All net dining and catering cash receipts will be deposited daily in a bank account. In return for the College providing the facilities and utilities, the food service vendor shall pay the College a monthly commission of sales less commission collected by the Contractor, including vending machine revenue. The commission shall be paid to the College within ten (10) working days after the last day of each month.

Staffing, Resumes and Human Resources Processes.

All of the Contractor's employees whether currently employed or hired in the future and assigned to Manchester Community College, shall be required to submit to State and National criminal record checks (fingerprinting) within 10 calendar days of employment. The Contractor shall provide detail on the method to be used for notifying the State and the College of any conviction or pending charge.

Contractor will be certain that Dining Center Manager or Chef Manager has the proven performance and management ability to meet the profile that together have been established for the dining program. Management candidates are interviewed by the key Contractor management which is an important step in the selection process. With the selected management candidate, the Contractor's Management Team will interview and select the opening service team. This important step will ensure the mutual satisfaction in the dining program. The Dining Center Manager or Chef Manager and his/her Area Operations Manager/GM will then be directly involved in the hiring and ongoing development of the dining program team. See Attachment 3 for the Organizational Chart to be used at this site.

A key objective of dining management is to establish and nurture effective communications to ensure optimal customer satisfaction and to become truly integrated with the organization.

Dining management will establish regular meetings with college designee to discuss matters such as continued customer satisfaction, financial performance, additional services required.

Sanitation & Quality Control:

It is the Contractor's policy to responsibility to maintain a spotless foodservice operation that exceeds the sanitation standards of Federal, State and local codes. The Contractor's policy includes a comprehensive in-house sanitation program focusing on employee education, implementation procedures and an inspection system to assure compliance.

ServeSafe, the National Institute for the Food Service Industry widely accepted sanitation course, shall be conducted semi-annually for its food service management personnel. This course provides the formula for proper food handling procedures, including purchasing, storage, preparation and service. Continual in-service training of the hourly employees within each unit is based upon the ServSafe Sanitation course. Among the subjects stressed are personal hygiene, contamination and food borne illness, proper food storage, protecting food during preparation and serving and correct cleaning and sanitizing procedures.

Transition Plan

The Grand Opening of the new dining service for College will take approximately 2-4 weeks from the date of award and pending the status of any equipment additions and/or upgrades agreed upon by both parties. The transition would follow the guidelines outlined below:

- Schedule/attend meeting with your liaison regarding transition and establish timeline

- Finalize and order capital and small equipment needs, if necessary
- Select Chef Manager by mutual agreement
- Interview and hire hourly staff
- Meet with Chef Manager and your liaison for interview and your approval of candidates for hire
- Establish product ship-receive dates
- Coordinate necessary electrical and plumbing requirements, in any
- Apply for health permit and insurances
- Establish initial menu plan and review with your liaison
- Send brief introduction of Contractor and Contractor's plans for the food service program to you for distribution to agency (if desired)
- Contact your liaison to re-review transition date and schedule
- Install necessary food service equipment
- Receive orders
- Final inventories of equipment if required
- Food production and tasting dry run
- Installation of merchandising materials and signage
- Prepare for opening (three successive days prior to official opening)
- Grand Opening

STATE OF CONNECTICUT

PROCUREMENT DIVISION

EXHIBIT B

RFP NO.: 09PSX0212

Ann Simeone
Contract Specialist

(860)713-5051
Telephone Number

PRICE SCHEDULE for RFP # 09PSX0212	DELIVERY: As Required	
Page 1 OF 1	TERMS: 45 days	CASH DISCOUNT: 0 % Days
CONTRACTOR NAME: Next Generation Vending and Food Service Inc.		

ITEM #	DESCRIPTION OF COMMODITY AND/OR SERVICES	UNIT OF MEASURE	PRICE
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The food service vendor agrees to pay Manchester Community College a monthly Commission on gross receipts from the following operations:			
1.	Lowe Cafeteria & AST Café operations	Commission Rate	*1 %
	Vending Operations	Commission Rate	15 %
	Catering Operations	Commission Rate	5 %
2.	The food service vendor agrees to provide snacks prepared and delivered to the Child Development Center:	Daily Price per Child per snack	\$ 1.50
3.	The food service vendor agrees to provide prepared lunches in accordance with the Federal School Lunch program guidelines, including delivery of same to the GPA Internet Café in accordance with the schedule attached	Daily price per student	\$ 2.50

*Next Generation shall pay the College a commission on the a monthly net cafeteria sales (exclusive of sales tax) (“Commissions”) from the main café (Courgars Cave) and satellite café (AST) (“Net Dining Sales”). Next Generation shall pay 1% of monthly Net Dining Sales up to the first \$350,000 of aggregate Net Dining Sales. When the aggregate monthly Net Dining Sales in any contract year reaches \$350,000.01, Next Generation will pay MCC based on the aggregate annual Net Dining Sales in the chart below. The aggregate Net Dining Sales for each contract year will determine the amount of Commissions paid to MCC on a monthly basis. Please see the chart below for Commissions to be paid based on these parameters. The payment shall be forwarded within thirty (30) days of the end of each monthly accounting period. Payments for Commissions shall be sent by mail to the College at the notice address set forth in the Contract and shall include a complete accounting for said payment.

Net Annual Aggregate Dining Café	Commission Rate	Commission Amount
\$0-\$350,000.00	*1%	\$0-\$3500
\$350,000.01-\$400,000.00	*2%	Additional \$0 - \$1,000
\$400,000.01-\$450,000.00	*3%	Additional \$0 - \$1,500
\$450,000.01-\$500,000.00	*4%	Additional \$0 - \$2,000
\$500,000.01-\$550,000.00	*5%	Additional \$0 - \$2,500
\$500,000.01 and above	*6%	Additional \$0 and Infinity

EXHIBIT C

SEEC FORM 11

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to “State Contractor Contribution Ban.”

Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political

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subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv)

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serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

09PSX0212

EXHIBIT D

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EXHIBIT E

See Attached Rates

Project: Food Services And Vending Service For Manchester CC And Great Path Academy

**Standard Wage Rates Determination
for Certain Service**

S 12417

**Connecticut Department of Labor
Wage and Workplace Standards Division**

By virtue of the authority vested in the Labor Commissioner under provisions of Connecticut General Statutes, Section 31-57f the following have been determined to be the minimum rates for each classification adopted from the federal Register of Wage Determinations under the Service Contract Act, Title 29, Part 4 plus a thirty percent surcharge to cover the cost of any health; welfare, and retirement plans. If no such plan is in effect between employees and the employer, an amount equal to thirty percent of the hourly wage shall be paid directly to the employees.

Project

Town Manchester

Project: Food Services And Vending Service For Manchester CC And Great Path Academy

OCCUPATIONAL	Minimum Hourly Rate	Benefit Surcharge
Assembler	\$9.70	2.91
Baker	\$13.25	3.98
Bartender	\$9.52	2.86
Boiler Tender	\$26.64	7.99
Carpenter, Maintenance	\$21.98	6.59
Cashier	\$9.93	2.98
Cleaner, Vehicles	\$11.34	3.40
Cook I	\$13.79	4.14

As of: 6/18/2009

Project: Food Services And Vending Service For Manchester CC And Great Path Academy

Cook II	\$15.02	4.51
Counter Attendant	\$9.70	2.91
Dishwasher	\$10.14	3.05
Dry Cleaner	\$12.30	3.69
Electrician, Maintenance	\$26.01	7.80
Elevator Operator	\$12.12	3.64
Fast Food Shift Leader	\$8.57	2.57
Fast Food Worker	\$8.00	2.40
Food Service Worker	\$11.14	3.35
Furniture Handler	\$13.89	4.17
Gardner	\$16.01	4.80
General Maintenance Worker	\$18.70	5.61
Housekeeping Aide	\$12.12	3.64
HVAC	\$23.58	7.07
Janitor	\$14.48	4.35
Laborer	\$12.74	3.82

As of: 6/18/2009

Project: Food Services And Vending Service For Manchester CC And Great Path Academy

Laborer, Grounds Maintenance	\$13.49	4.05
Locksmith	\$23.17	6.96
Maid or Houseman	\$10.74	3.22
Meat Cutter	\$19.36	5.81
Painter, Maintenance	\$20.27	6.08
Parking Lot Attendant	\$10.21	3.06
Pest Controller	\$15.45	4.63
Pipefitter, Maintenance	\$24.90	7.47
Plumber, Maintenance	\$23.50	7.05
Presser, Hand	\$9.70	2.91
Presser, Machine, Drycleaning	\$9.70	2.91
Presser, Machine, Shirts	\$9.70	2.91
Presser, Machine, Wearing Apparel, Laundry	\$9.70	2.91
Refuse Collector	\$13.86	4.15
Sheet Metal Worker, Maintenance	\$23.25	6.98
Stationary Engineer	\$26.64	7.99

As of: 6/18/2009

Project: Food Services And Vending Service For Manchester CC And Great Path Academy

Tractor Operator	\$15.05	4.52
Truck Driver and Snowplow Driver, Heavy Truck - Straight truck, over 4 tons, usually 10 wheels	\$20.64	6.19
Truck Driver and Snowplow Driver, Light Truck - Straight truck, under 1 1/2 tons, usually 4 wheels	\$14.97	4.50
Truck Driver and Snowplow Driver, Medium Truck - Straight truck, 1 1/2 to 4 tons inclusive, usually 6 wheels	\$18.94	5.68
Vending Machine Attendant	\$13.65	4.10
Ventilation Equipment Tender	\$20.59	6.18
Waiter/Waitress	\$10.42	3.13
Washer, Machine	\$10.56	3.17
Window Cleaner	\$14.62	4.39

Please direct any questions which you may have pertaining to this matter to the Wage and Workplace Standards Division, telephone (860)263-6790.

As of: 6/18/2009

EXHIBIT F

Traditional Food-Based Meal Pattern for Lunch

Minimum Quantities

Meal Component	Required				Group V
	Group I Ages 1-2	Group II Ages 3-4	Group III Grades K-3 (Ages 5-8)	Group IV Grades 4-12 (9 years and older)	Recommended Grades 7-12 (12 years and older)
Milk (as a beverage) Meat or Meat Alternate (Quantity of the edible portion as served) Lean meat/poultry or fish Alternate Protein Product ¹ Cheese Egg (large) Cooked dry beans and peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened	6 fl. oz.	6 fl. oz.	8 fl. oz.	8 fl. oz.	8 fl. oz.
The following may be used to meet no more than 50% of the requirement and must be used in combination with any of the above: Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry or fish).	1 oz. 1 oz. 1 oz. 1/2 egg 1/4 cup 2 Tbsp. 4 oz. or 1/2 cup	1 1/2 oz. 1 1/2 oz. 1 1/2 oz. 3/4 egg 3/8 cup 3 Tbsp. 6 oz. or 3/4 cup	1 1/2 oz. 1 1/2 oz. 1 1/2 oz. 3/4 egg 3/8 cup 3 Tbsp. 6 oz. or 3/4 cup	2 oz. 2 oz. 2 oz. 1 egg 1/2 cup 4 Tbsp. 8 oz. or 1 cup	3 oz. 3 oz. 3 oz. 1 1/2 eggs 3/4 cup 6 Tbsp. 12 oz. or 1 1/2 cup
Vegetables/Fruits ² (2 or more servings of vegetables or fruits or both)	1/2 cup	1/2 cup	1/2 cup	3/4 cup	3/4 cup
Grains/Breads ³ Must be enriched or whole grain or contain germ or bran. A serving is a slice of bread (25 grams or 0.9 oz.) or an equivalent serving of biscuits, rolls, etc., or 1/2 cup of cooked rice, macaroni, noodles, other pasta products or cereal grains.	5 servings per week ^{3,4,5} Minimum of 1/2 per day	8 servings per week ^{3,4,5} Minimum of 1 per day	8 servings per week ^{3,4,5} Minimum of 1 per day	8 servings per week ^{3,4,5} Minimum of 1 per day	10 servings per week ^{3,4,5} Minimum of 1 per day

¹ Alternate Protein Products must (1) be processed so that some portion of the non-protein constituents of the food is removed, (2) have a biological protein quality of at least 80 percent that of casein as determined by PDCAAS, and (3) contain at least 18 percent protein by weight when fully hydrated or formulated.
² The specified portions must be met with at least two servings of different fruit(s) and/or vegetable(s). Full-strength vegetable or fruit juice may be counted to meet not more than 50 percent of this requirement.
³ For specific serving sizes see "Serving Sizes for Grains/Breads in Child Nutrition Programs".
⁴ For the purposes of this chart, a week equals five days.
⁵ Seven-day operations must provide the following weekly totals for grains/breads: 7 servings for ages 1-2; 1 1/2 servings for ages 3-4; 1 1/2 servings for grades K-3; 1 1/2 servings for grades 4-12; and 14 servings for optional grades 7-12.

EXHIBIT F

QUALIFIED FOOD OPERATOR

19-13B-42(s)(4), B48(j)(3), B49(t)(3) OF THE PUBLIC HEALTH CODE

Each person owning, operating or managing any food service establishment, itinerant food vending establishment, or food catering establishment designated either as a class III or class IV shall be a qualified food operator or shall employ on-site at least one (1) qualified food operator who is in a supervisory position at said establishment. Qualified Food Operator is a food operator employed in a full-time position who has demonstrated knowledge of safe food handling techniques. [Full-time position means 30 hours per week or the number of hours per week the food establishment is open for business, whichever is less.] Supervisory position means that position of a person who directs and inspects the performance of food service workers.

Responsibilities of Qualified Food Operators: The qualified food operator is responsible for operating the food service establishment, itinerant food vending establishment, and catering establishment in compliance with all the provisions of section 19-13-B42, B48, and B49 of the Regulations of Connecticut State Agencies. **The qualified food operator of each foodservice establishment, itinerant food vending establishment, and catering establishment is responsible for ensuring training of food preparation personnel.** All such personnel shall receive training that shall include but not necessarily be limited to: instruction in proper food temperature control; food protection; personal health and cleanliness; and sanitation of the facility, equipment, supplies and utensils. The qualified food operator shall maintain written documentation of a training program and training records of individual employees, and shall make these records available to the local health department upon request.

QUALIFIED FOOD OPERATOR NOT PRESENT

SECTION 19-13B-42(s)(8)(B), B48(j)(7)(B), AND B49(t)(7)(B)

The owner/operator of the food service establishment, itinerant food vending establishment, and catering establishment shall designate an alternate person who has complied with Section 19-13-B42(s)(6) to be in charge at all times when the qualified food operator cannot be present. This alternate person in charge shall be responsible for: ensuring that all employees comply with the requirements of this section, and that foods are safely prepared; handling emergencies; admitting the inspector; and receiving and signing their inspection report.

REPLACEMENT OF QUALIFIED FOOD OPERATOR

Section 19-13B-42(s)(7), B48(j)(6), B49(t)(6)

Whenever the qualified food operator terminates employment, is terminated or is transferred, the person owning, operating or managing the food service establishment, itinerant food vending establishment, and catering establishment shall notify the local health department in writing. A replacement qualified food operator shall be employed within sixty (60) days from the date of termination or transfer of the qualified food operator.

CLOSURE OF A FOOD ESTABLISHMENT FOR FAILURE TO EMPLOY ON-SITE A

QUALIFIED FOOD OPERATOR

Section 19-13B-42(u)(4), B49(v)(4)

If a qualified food operator is not employed onsite, except as provided by the qualified food operator replacement provision in Section 19-13B-42(s)(7), the food service establishment or catering establishment has thirty (30) days to comply. If correction has not been made after thirty (30) days, the Director of Health shall take immediate steps to close the food service establishment or catering establishment.

The Connecticut Public Health Code Sections Section 19-13-B42, B48, and B49 can be located at: www.ct.gov/dph

EXHIBIT F



STATE OF CONNECTICUT DEPARTMENT OF EDUCATION



OPERATIONAL MEMORANDUM

TO: Sponsors of School Child Nutrition Programs

FROM: Cheryl Resha, Education Manager *Cheryl Resha*
Bureau of Health/Nutrition, Family Services and Adult Education

DATE: August 15, 2008

SUBJECT: Operational Memorandum #22-08
Rates of Reimbursement for School Year July 1, 2008 – June 30, 2009

<u>National School Lunch Program</u>	<u>State ID</u>	<u>Regular Rates</u>	<u>Severe Need Rates*</u>
Paid	20560	.24	.26
Reduced	20560	2.17	2.19
Free	20560	2.57	2.59

* In districts participating in the National School Lunch Program with 60% or more free and reduced participation during the second prior year.

<u>School Breakfast Program</u>	<u>State ID</u>	<u>Regular Rates</u>	<u>Severe Need Rates*</u>
Paid	20508	.25	.25
Reduced	20508	1.10	1.38
Free	20508	1.40	1.68

*Severe Need Rates are available to schools where, in the second prior year, 40% or more of the students received lunches free or at a reduced price.

<u>Special Milk Program</u>	<u>State ID</u>	<u>Rate</u>
	20500	.1825*

*Per half pint. If the program serves milk free of charge to eligible students, those milks will be reimbursed at the average cost per ½ pint of milk.

<u>After-School Snack Program</u>	<u>State ID</u>	<u>Rate</u>
Paid	included in 20560	.0600
Reduced	included in 20560	.3500
Free	included in 20560	.7100

Important: This is a numbered Operational Memorandum that contains important program information. Please read carefully and retain in a binder for your future reference. Operational Memoranda are also posted on the Child Nutrition website: <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=320676>.

The Commodity Assistance Rate for this period is: \$.2075.

As a reminder, LEAs must set reduced price charges for lunch, breakfast and/or after school snacks at or below the maximum reduced price allowed by regulations. These rates must not exceed a charge of 40 cents per lunch; 30 cents per breakfast; and 15 cents for after school snacks.

Questions pertaining to this memorandum may be directed to:

- Teri Dandeneau 860-807-2079 teri.dandeneau@ct.gov
- Bob Zwack 860-807-2081 robert.zwack@ct.gov

CR:tdd

Month	Monday	Tuesday	Wednesday	Thursday	Friday	Year
	Carrots + Dip <i>Apple Juice</i>	Apple Slices <i>Grape Juice</i>	Veggie Chips + Dip <i>Milk</i>	Noodles + Duck Sauce <i>White Grape Juice</i>	Breadsticks + Sauce <i>Apple Juice</i>	
	Animal Crackers <i>White Grape Juice</i>	Crackers + Cheese <i>White Cranberry Juice</i>	Cucumbers + Dip <i>Apple Juice</i>	Goldfish Crackers <i>CranGrape Juice</i>		
	Matzo + Cream Cheese <i>White Cranberry Juice</i>	Honey Graham Crackers <i>Apple Juice</i>	Pretzels + Cheese <i>CranGrape Juice</i>	Celery + Cream Cheese <i>White Grape Juice</i>	Ritz Crackers + Applesauce <i>White Cranberry Juice</i>	
	Blue Corn Chips + Salsa <i>White Grape Juice</i>	Fruit Salad <i>Grape Juice</i>	Chex Mix <i>Grape Juice</i>	Peach Slices <i>Apple Juice</i>		
	Cheese Nips <i>Apple Juice</i>	Raisins, Pretzels + Chex <i>Grape Juice</i>	White Cheddar Crackers <i>CranGrape Juice</i>	Melon <i>Grape Juice</i>	Matzo + Cream Cheese <i>White Cranberry Juice</i>	
	Cinnamon Grahams <i>White Grape Juice</i>	Ritz Sticks <i>Apple Juice</i>	Carrots + Dip <i>Apple Juice</i>	Apple Slices <i>White Grape Juice</i>		
	Ritz Crackers + Applesauce <i>White Cranberry Juice</i>	Veggie Chips + Dip <i>Grape Juice</i>	Animal Crackers <i>CranGrape Juice</i>	Noodles + Duck Sauce <i>Grape Juice</i>	Cucumbers + Dip <i>Apple Juice</i>	
	Blue Corn Chips + Salsa <i>White Grape Juice</i>	Pretzels + Cheese <i>Apple Juice</i>	Celery + Cream Cheese <i>Grape Juice</i>	Peach Slices <i>White Grape Juice</i>		
	Goldfish Crackers <i>CranGrape Juice</i>	Fruit Salad <i>Grape Juice</i>	Chex Mix <i>White Cranberry Juice</i>	Ritz Crackers + Applesauce <i>Apple Juice</i>	White Cheddar Crackers <i>Grape Juice</i>	
	Raisin, Pretzels + Chex <i>Apple Juice</i>	Breadsticks + Sauce <i>White Grape Juice</i>	Melon <i>Apple Juice</i>	Cheese Nips <i>White Grape Juice</i>		

Attachment 1

GREAT PATH ACADEMY 2009-2010

24-25 Teachers' PD Day
26-27 Student Orientation
28 Fallstaff PD Day
31 College Classes Begin

AUGUST 3						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	PD	PD	SO	SO	FS	29
30	31					

SEPTEMBER 21						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

7 Labor Day - No School

12 Columbus Day
No School

OCTOBER 21						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOVEMBER 18						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	PD	26	27	28
29	30					

1 Daylight Savings Time ends
25-27 Thanksgiving Break
25 Teachers PD

23-31 Winter Break

DECEMBER 16						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	NS	H	H	26
27	NS	NS	NS	NS		

JANUARY 12 (90) 5						
S	M	T	W	Th	F	S
				H	2	
3	NS	NS	NS	7	8	9
10	11	12	13	14	15	16
17	H	19	20	21	22	23
24	25	26	27	28	29	30
31						

1 New Year's Day
6 Three Kings' Day
7 Classes Resume
18 M.L. King Jr. Day
25 Second Semester Begins

15 Presidents Day

FEBRUARY 19						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	PR	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH 20						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	SR	SR	SR			

14 Daylight Savings Time begins
29-31 Spring Recess

1-2 Spring Recess

APRIL 20						
S	M	T	W	Th	F	S
				SR	SR	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

MAY 20						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

31 Memorial Day

11 Graduation Day
14 Professional Day

JUNE 9 (23)						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	LD	12
13	PD	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JULY						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

5 Independence Day

Approved 3/4/2009

Attachment 2

“Green” catering and food service guidelines from the MCC Sustainability Team

Avoid the use of styrene or plastic plates. Substitute with reusable and/or recycled options.

Where ever possible recyclable or reusable container are to be used for serving dishes, utensils, and condiment containers.

Limit 'single serve' and excess wrapping where ever possible both on the serving line and in the procurement process.

Canned beverages are preferable over plastic or glass.

Recycling of paper, cardboard, bottles and cans is encouraged by appropriate containers and signage.

Utilize local food products where ever practical.

Vegetarian and Vegan offerings to be available

Consider composting options for food waste in kitchen operations.

Advertise the sustainable food choices and the waste prevention options.

Attachment 3



MANCHESTER
COMMUNITY
COLLEGE

