

Amendment I

BUNKER HILL COMMUNITY COLLEGE

**AMENDMENT TO FOOD SERVICE AGREEMENT**

CAFETERIA, FOOD CART and CATERING SERVICES

As of July 29, 2016, the contract entitled FOOD SERVICE AGREEMENT between Bunker Hill Community College and UNIDINE Corporation will be amended as follows:

1. Table 1, in Page Number 2 will be deleted and replaced by new commission table as shown below.

**Table 1**

AGREED COMMISSIONS RATES TO BUNKER HILL COMMUNITY COLLEGE

CAFETERIA SALES FROM	CAFETERIA SALES TO	COMMISSION RATE
\$ 0.00	\$ 425,000.00	7.0%
\$ 425,000.00	\$ 475,000.00	7.1%
\$ 475,000.00	\$ 525,000.00	7.30%
\$ 525,000.00	\$ 575,000.00	7.50%
\$ 575,000.00	\$ 625,000.00	7.70%
\$ 625,000.00	\$ 650,000.00	7.90%
\$ 650,000.00	\$ 675,000.00	8.00%
\$ 675,000.00	\$ 700,000.00	8.20%
\$ 700,000.00	and Above	8.30%

CATERING SALES FROM	CATERING SALES TO	COMMISSION RATE
\$ 0.00	\$ 200,000.00	8.0%
\$ 200,000.00	\$ 300,000.00	10.0%
\$ 300,000.00	\$ 325,000.00	11.0%
\$ 325,000.00	\$ 350,000.00	12.5%
\$ 350,000.00	\$ 375,000.00	13.0%
\$ 375,000.00	\$ 400,000.00	13.5%
\$ 400,000.00	and Above	13.9%

These changes are the only changes to the original contract. The entire remainder of the original contract remains in full force.

Amendment I

**Signed and Agreed:**

**For the Concessionaire: UNIDINE Corporation**

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

**For Bunker Hill Community College:**

\_\_\_\_\_  
John K Pitcher, Vice President, Finance and Admin

\_\_\_\_\_  
Date

Mr. John B Chapin, CPP, Area Vice President  
Securitas Security Services USA

April 14, 2016

Dear Mr. Chapin:

Congratulations!! Securitas Security Services, USA has been awarded the Campus Security Bid BHCPS2016 to Contract at Bunker Hill Community College, effective July 1, 2016 through June 30, 2019; with two (2) one (1)-year options to renew the service from July 1, 2019 to June 30, 2020; and from July 1, 2020 to June 30, 2021.

Robert A Barrows, Chief of Police and Mukti Raut, Purchasing Manager of Bunker Hill Community College will be in contact with you to arrange a meeting to finalize the agreement for the Scope of Service between BHCC and Securitas. The Commonwealth of Massachusetts Standard Contract and Terms and Condition will be completed upon agreement.

Thank you for the competitive proposal and BHCC looks forward to experience excellent contract performance from your prestigious organization.

Sincerely,

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at [www.mass.gov/osc](http://www.mass.gov/osc) under [Guidance For Vendors - Forms](#) or [www.mass.gov/osd](http://www.mass.gov/osd) under [OSD Forms](#).

<b>CONTRACTOR LEGAL NAME:</b> (and d/b/a): UNIDINE CORPORATION		<b>COMMONWEALTH DEPARTMENT NAME:</b> BUNKER HILL COMMUNITY COLLEGE <b>MMARS Department Code:</b>	
<b>Legal Address:</b> 1000 Washington Street, ste 510, Boston MA 02118		<b>Business Mailing Address:</b> 250 NEW RUTHERFORD AVE BOSTON, MA 02129 <a href="mailto:apayable@bhcc.mass.edu">, apayable@bhcc.mass.edu</a>	
<b>Contract Manager:</b> VICTORIA VEGA		<b>Billing Address</b> (if different): <a href="mailto:apayable@bhcc.mass.edu">apayable@bhcc.mass.edu</a>	
<b>E-Mail Address:</b> <a href="mailto:vvega@unidine.com">vvega@unidine.com</a>		<b>Contract Manager:</b> Mukti Raut	
<b>Phone:</b> 617-459-4267	<b>Fax:</b> 617-456-4467	<b>E-Mail Address:</b> <a href="mailto:mnraut@bhcc.mass.edu">mnraut@bhcc.mass.edu</a>	<b>E-Mail Address 2:</b>
<b>Contractor Vendor Code:</b> <b>Payment Address Code:</b> (e.g. "AD001") AD0 _____		<b>Phone:</b> 617-228-2433	<b>Fax:</b> 617-228-2120
Is this Payment Address Code set up for EFT? <input type="checkbox"/> Yes <input type="checkbox"/> No. (If "No" the Contractor must attach <a href="#">EFT paperwork</a> )		<b>MMARS Doc ID(s):</b> <b>RFR/Procurement or Other ID Number:</b>	
<input type="checkbox"/> <b>NEW CONTRACT</b> <b>PROCUREMENT OR EXCEPTION TYPE:</b> (Check one option only) <input type="checkbox"/> <b>Statewide Contract</b> (OSD or an OSD-designated Department) <input type="checkbox"/> <b>Collective Purchase</b> (Attach OSD approval, scope, budget) <input type="checkbox"/> <b>Department Procurement</b> (includes State or Federal grants <a href="#">815 CMR 2.00</a> ) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> <b>Emergency Contract</b> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach <a href="#">Employment Status Form</a> , scope, budget) <input type="checkbox"/> <b>Legislative/Legal Exemption or Other:</b> (Attach authorizing language/justification, scope and budget)		<input checked="" type="checkbox"/> <b>CONTRACT AMENDMENT</b> Enter Current Contract End Date <b>Prior</b> to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") <b>AMENDMENT TYPE:</b> (Check one option only. Attach details of Amendment changes.) <input checked="" type="checkbox"/> <b>Amendment to Scope or Budget</b> (Attach updated scope and budget) <input type="checkbox"/> <b>Interim Contract</b> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach any updates to scope or budget) <input type="checkbox"/> <b>Legislative/Legal Exemption or Other:</b> (Attach authorizing language/justification and updated scope and budget)	
The following <a href="#">COMMONWEALTH TERMS AND CONDITIONS</a> (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services			
<b>COMPENSATION:</b> (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input checked="" type="checkbox"/> <b>Rate Contract</b> (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input type="checkbox"/> <b>Maximum Obligation Contract</b> Enter Total Maximum Obligation for total duration of this Contract (or <i>new</i> Total if Contract is being amended). :			
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting <b>accelerated</b> payments must identify a PPD as follows: Payment issued within 10 days <input type="checkbox"/> % PPD; Payment issued within 15 days <input type="checkbox"/> % PPD; Payment issued within 20 days <input type="checkbox"/> % PPD; Payment issued within 30 days <input type="checkbox"/> % PPD. If PPD percentages are left blank, identify exemption: <input type="checkbox"/> statutory/legal or Ready Payments ( <a href="#">G.L. c. 29, § 23A</a> ); <input type="checkbox"/> federal grant/trust; <input type="checkbox"/> initial payment (subsequent payments must be scheduled to support payee cash flow needs and standard EFT 45 day payment cycle. See <a href="#">Prompt Pay Discounts Policy</a> .)			
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> <b>ONSITE CAFETERIA, FOOD CART, CATERING SERVICES PER RFR : MANUAL FOOD SERVICE-BHCC2013</b>			
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input type="checkbox"/> 1. may be incurred as of the <a href="#">Effective Date</a> (latest signature date below subject to any required approvals) and <b>no</b> obligations have been incurred <b>prior</b> to the <a href="#">Effective Date</a> . <input type="checkbox"/> 2. may be incurred as _____, a date <b>LATER</b> than the <a href="#">Effective Date</a> below and <b>no</b> obligations have been incurred <b>prior</b> to the <a href="#">Effective Date</a> . <input checked="" type="checkbox"/> 3. were incurred as of <u>07/01/2013</u> , a date <b>PRIOR</b> to the <a href="#">Effective Date</a> below, and the parties agree that payments for any obligations incurred prior to the <a href="#">Effective Date</a> are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>06/30/2017</u> with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the " <a href="#">Effective Date</a> " of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached <a href="#">Contractor Certifications</a> (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable <a href="#">Commonwealth Terms and Conditions</a> , this Standard Contract Form including the <a href="#">Instructions and Contractor Certifications</a> , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <a href="#">801 CMR 21.07</a> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
<b>AUTHORIZING SIGNATORY FOR THE CONTRACTOR:</b>		<b>AUTHORIZING SIGNATORY FOR THE COMMONWEALTH:</b>	
X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)		X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)	
Print Name: _____		Print Name: _____	
Print Title: _____		Print Title: _____	

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



## INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

**CONTRACTOR LEGAL NAME (AND D/B/A):** Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#). If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

**Contractor Legal Address:** Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 1099I table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

**Contractor Payment Remittance Address:** Enter the address other than the Legal Address for payments which must match the remittance address on the W-9 submitted by the Contractor. All Contractor payments are made via EFT in accordance with the Bill Payment Policy.

**Contractor Contract Manager:** Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on Comm-PASS, the Contract Manager must be listed on the Vendor Section tab.

**Contractor E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Legal notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

**Contractor Vendor Code:** Enter the [MMARS Vendor Code](#) assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned along with the [Payment Remittance Address Code](#) (e.g., "AD001") for this Contract. The Department is responsible for verifying with authorized signatories of the Contractor, as part of the procurement and contracting process, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the Vendor Code and that the payment address code is set up for EFT payments. **EFT is required for all payments absent exceptional circumstances.**

**COMMONWEALTH DEPARTMENT NAME:** Enter the full Department name with the authority to obligate funds encumbered for the Contract.

**Commonwealth MMARS Alpha Department Code:** Enter the [three \(3\) letter MMARS Code](#), assigned to this Commonwealth Department in the state accounting system.

**Department Business Mailing Address:** Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for written notice under the Contract.

**Department Billing Address:** Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

**Department Contract Manager:** Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

**Department E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. An alternate contact may also be entered under E-Mail Address 2 (optional). Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

**MMARS Document ID(s):** Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

**RFR/Procurement or Other ID Number or Name:** Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

## NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

**PROCUREMENT OR EXCEPTION TYPE:** Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See [State Finance Law and General Requirements](#), [Acquisition Policy and Fixed Assets](#), the [Commodities and Services Policy](#) and the [Procurement Information Center \(Department Contract Guidance\)](#) for details.

**Statewide Contract (OSD or an OSD-designated Department):** Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

**Collective Purchase approved by OSD:** Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

**Department Contract Procurement:** Check this option for a Department procurement including state grants and federal sub-grants under [815 CMR 2.00](#) and [State Grants and Federal Subgrants Policy](#), Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

**Emergency Contract:** Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

**Contract Employee:** Check this option when the Department requires the performance of an [Individual Contractor](#), and when the planned Contract performance with an Individual has been classified using the [Employment Status Form](#) (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

**Legislative/Legal or Other Exemption:** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

## CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See [Amendments, Suspensions, and Termination Policy](#)."

**Enter Current Contract End Date:** Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

**Enter Amendment Amount:** Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

**AMENDMENT TYPE:** Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget:** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

**Interim Contracts:** Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

**Contract Employee:** Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

**Legislative/Legal or Other Exemption:** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly posted.

## COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See [Vendor File and W-9s Policy](#).

## COMPENSATION

Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as [available and encumbered](#) prior to incurring obligations.

## PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth [Bill Payment Policy](#) for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under [G.L. c. 29, s. 23A](#)). See [Prompt Pay Discounts Policy](#). PPD are identified as a percentage discount which will automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify the exemption: (1) statutory/legal/Ready Payments (2) federal grant/trust or (3) initial state grant or entitlement payments for start up costs. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the first invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Payment Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

## BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, and determine if the appropriate expenditure code (as listed in the [Expenditure Classification Handbook](#)) has been selected. Enter "Multi-User Departmental procurement" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient. The Department may include any additional information in this section to identify unique or important information related to this Contract, program or the Contractor. If multi-Department user Contract, identify multi-Department use is allowable

## ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract or Contract Amendment may be incurred, either as of the Effective Date (latest signature date and of any required approvals) a LATER date, or if the performance has already been incurred PRIOR to the Effective Date by selecting the appropriate option. In the event obligations have been incurred by the Contractor prior to the Effective Date, the Contract must include detailed supporting documentation of performance made prior to the Effective date (including during a lapse between a Contract expiration and Contract Amendment) or the terms and process for eligible reimbursements after performance has been made by the Contractor (e.g., grant program). Proof of eligible reimbursement program must be attached. For Settlements, the parties agree to resolve payment for performance made outside the scope of the Contract (prior to Effective date or after termination date) which releases the Commonwealth from further obligations for the identified performance. This Amendment option is used in lieu of the [Settlement and Release Form](#). Settlement payments are included under the same encumbrance and object codes as the Contract. Performance dates are subject to [G.L. c.4, § 9](#).

## CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. **If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here.** A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, § 9](#).

## CERTIFICATIONS AND EXECUTION

See [Department Head Signature Authorization Policy](#) and the [Contractor Authorized Signatory Listing](#) for policies on Contractor and Department signatures.

**Authorizing Signature for Contractor/Date:** The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Contract Start Date](#)". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a [Contractor Authorized Signatory Listing](#) may be required by the Department if not already on file.

**Contractor Name /Title:** The Contractor Authorized Signatory's name and title must appear legibly as it appears on the [Contractor Authorized Signatory Listing](#).

**Authorizing Signature For Commonwealth/Date:** The [Authorized Department Signatory](#) must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Start Date](#)". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See [Department Head Signature Authorization](#). The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an [approved Interdepartmental Service Agreement \(ISA\)](#). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

**Department Name /Title:** Enter the Authorized Signatory's name and title legibly.

## CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

**Commonwealth and Contractor Ownership Rights.** The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" which purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

**Qualifications.** The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.

**Contractor Code of Conduct and Business Ethics.** The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse. The Contractor certifies that a Code of Conduct and Business Ethics will be available for review upon request within 60 days of the Effective Date of this Contract which will be provided to all employees and subcontractors involved in contract performance.

**Collusion.** The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

**Public Records and Access** The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under [Executive Order 195](#) and [G.L. c. 11, s.12](#) seven (7) years beginning on the first day after the final payment under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

**Debarment.** The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#); [G.L. c.30, § 39R](#); [G.L. c.149, § 27C](#); [G.L. c.149, § 44C](#); [G.L. c.149, § 148B](#) and [G.L. c. 152, s. 25C](#).

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



**Applicable Laws.** The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

**Invoices.** The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth [Bill Paying Policy](#). Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15<sup>th</sup> for performance made and received (goods delivered, services completed) prior to June 30<sup>th</sup>, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15<sup>th</sup> or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

**Payments Subject To Appropriation.** Pursuant to [G.L. c. 29 § 26, § 27 and § 29](#), Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by [G.L. c. 29, § 9C](#). A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

**Intercept.** Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to [G.L. c. 7A, s. 3](#) and [815 CMR 9.00](#). Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

**Tax Law Compliance.** The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [State tax laws](#) including but not limited to [G.L. c. 62C, G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11: New Independent Contractor Provisions](#) and applicable [TIRs](#).

**Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts.** The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing **at least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

**Federal Anti-Lobbying and Other Federal Requirements.** If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including [31 USC 1352](#); [other federal requirements](#); [Executive Order 11246](#); [Air Pollution Act](#); [Federal Water Pollution Control Act](#) and [Federal Employment Laws](#).

**Protection of Personal Data and Information.** The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a

minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

**Corporate and Business Filings and Reports.** The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

**Employer Requirements.** Contractors that are employers certify compliance with applicable state and federal employment laws or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) ([Prevailing Wages for Contracts for Meat Products and Clothing and Apparel](#)); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance](#) and contributions; [workers' compensation and insurance](#); [child labor laws](#); [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151](#) and [455 CMR 2.00](#) (Minimum Fair Wages); [G.L. c. 151A](#) (Employment and Training); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c. 153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

**Federal And State Laws And Regulations Prohibiting Discrimination** including but not limited to the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C. Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16, s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and [98A](#), [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sec. II, Part II, s. 255](#) (Telecommunication Act); Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272](#), [Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111](#), [Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).

**Small Business Purchasing Program (SBPP).** A Contractor may be eligible to participate in the SBPP, created pursuant to [Executive Order 523](#), if qualified through the SBPP SmartBid subscription process at: [www.comm-pass.com](#) and with acceptance of the terms of the SBPP participation agreement.

**Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized).** The [Information Technology Mandatory Specifications](#) and the [IT Acquisition Accessibility Contract Language](#) are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the [Expenditure Classification Handbook](#) or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term "other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

**Northern Ireland Certification.** Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the



Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

**Pandemic, Disaster or Emergency Performance.** In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**Consultant Contractor Certifications** (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to [G.L. Chapter 29, s. 29A](#)). Contractors must make required disclosures as part of the RFR Response or using the [Consultant Contractor Mandatory Submission Form](#).

**Attorneys.** Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to [G.L. c. 30, s. 65](#), and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

**Subcontractor Performance.** The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors. .

#### EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable [Executive Orders](#) (see also [Massachusetts Executive Orders](#)), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

**[Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts.](#)** For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

**[Executive Order 130. Anti-Boycott.](#)** The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See [IRC § 999\(b\)\(3\)-\(4\)](#), and [IRS Audit Guidelines Boycotts](#)) or engages in conduct declared to be unlawful by [G.L. c. 151E, s. 2](#). A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

**[Executive Order 346. Hiring of State Employees By State Contractors.](#)** Contractor certifies compliance with both the conflict of interest law [G.L. c. 268A specifically s. 5 \(f\)](#) and this order; and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

**[Executive Order 444. Disclosure of Family Relationships With Other State Employees.](#)** Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

**[Executive Order 504. Regarding the Security and Confidentiality of Personal Information.](#)** For all Contracts involving the Contractor's access to personal information, as defined in [G.L. c. 93H](#), and personal data, as defined in [G.L. c. 66A](#), owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and

penalties of perjury that the Contractor (1) has read Commonwealth Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth [Information Technology Division's Security Policies](#). Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "[Security Policies](#)") (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the [Commonwealth's Terms and Conditions](#), withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under [G.L. c. 214, § 3B](#) for violations under M.G.L. c. 66A. [Executive Orders 523, 524 and 526](#). Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes [Executive Order 478](#)). [Executive Order 524](#) (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390). [Executive Order 523](#) (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.



# BUNKER HILL COMMUNITY COLLEGE

## REQUEST FOR RESPONSE

### ON-SITE CAFETERIA, FOOD CART and CATERING SERVICES

#### I. General Information and Bid Submission Requirements

##### Bid Delivery

All bids must be delivered to Bunker Hill Community College  
c/o: Business Office, Room B-325  
250 New Rutherford Ave.  
Boston, MA 02129

Bids must be delivered and date-stamped at the above office by 1:00 PM on April 26, 2013. Late Bid responses will not be accepted. Bids which are either faxed or electronically submitted will not be accepted as a bid delivery. All bids must be in English and submitted in the same format as listed in the RFR using 12 font print. Information submitted beyond the scope required in the RFR may hinder vendor evaluation. One bidder will be awarded the food service contract.

Two (2) copies of the bid must be submitted. Bids must be sealed in an envelope or package and marked as follows: MANUAL FOOD SERVICE ---BHCC-2013.

All bids must include a Non-Collusion form, Tax Compliance Certificate, Bid Pricing Sheet, Contractor Authorized Signature Verification Form, and Reference Form and assigned questions as provided in this RFR on the COMM-PASS Terms & Conditions Tab. Also to be included: Sample Menu or 'Market Basket' of food offerings for a thirty (30) day period, Staffing Pattern, and Hours of Operation throughout the College year, and a Specific Proposal relative to monthly commissions.

Bid Signature: A bid must be signed as follows: 1) if the bidder is an individual, by her/him personally; 2) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

## Bonding Requirements

The CONCESSIONAIRE will be required to provide a \$5,000.00 Performance Bond as a surety of performance. The purpose of the bond is to cover the College's costs in the event of nonperformance or of delinquency in the payment for replacement equipment, materials or supplies referred to herein. The Concessionaire shall furnish a Performance Bond to the College within fourteen (14) calendar days of the signing of an Agreement. The Performance Bond will guarantee the compliance with all terms and conditions of the Agreement and shall be valid during the entire contract period and during extensions thereof. The Concessionaire will show evidence of this Bond each year or as requested by the College.

## Time for Bid Acceptance

The contract will be awarded within 30 Days after the bid opening. The time for award may be extended for up to 45 additional days by mutual agreement between the Bunker Hill Community College and the apparent highest responsive and responsible bidder which offers the Best Value to the College. This bid is a revenue generating contract for the College.

## Changes and Addenda

If any changes are made to this RFR, then an addendum will be issued to all bidders on record as having picked up the RFR. The addendum will be posted to COMM-PASS for easy access by any bidder and it is a bidder's responsibility to monitor COMM-PASS for all addendum so that a current response can be submitted. Bidders may not alter the RFR language or RFR component files; Bidder modifications to the RFR are prohibited; any such modifications will disqualify a Bidder.

## Questions about the RFR

Questions concerning this RFR must be submitted in writing to: Richard J. Pishkin, Business Office, Room B-325, #617-228-2427, Bunker Hill Community College, 250 New Rutherford Ave., Boston, MA 02129 by 4:00pm, **Tuesday, April 9, 2013**. Questions may be delivered, mailed, or faxed to #617-228-2120. Written responses will be mailed or faxed to all bidders on record as having picked up the RFR and responses will be posted to COMM-PASS.

**Bidder Communication:** Bidders are prohibited from communicating directly with any employee of the procuring department except as specified in this RFR, and no other individual, Commonwealth employee or representative of the College is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through COMM-PASS.

All information submitted in response to this RFR are subject to the Massachusetts Freedom of Information Law, M.G.L., Chapter 66, Part 10 and Chapter 4, part 7, sub-

part 26 regarding public access to such documents.

### [Modification or Withdrawal of Bids, Mistakes, and Minor Informalities](#)

A bidder may correct, modify, or withdraw a bid by written notice received by the Bunker Hill Community College prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No.\_\_\_\_" to the address listed in part one of this section. Each modification must be numbered in sequence, and must reference the original RFR title.

After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the College or fair competition. Either minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, then the mistake will be corrected to reflect the intended correct bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.

### [Pre-Bid Conference](#)

A pre-bid conference and walk through will be held at 10:00A.M. on Thursday, March 28, 2013 at Bunker Hill Community College, 250 New Rutherford Ave., Boston, MA 02129, in Room: E-175. Attendance at the pre-bid conference is mandatory in order to qualify as a Bidder; this will be an opportunity for a bidder to inspect the facilities and gather additional information for submission of their bid.

### [Right to Cancel/Reject Bids](#)

The Bunker Hill Community College may cancel this RFR, or reject in whole or in part any and all bids, and to waive any formalities in bidding if the College determines that cancellation or rejection serves the best interests of the College. The College will neither accept, receive, nor acknowledge a bidder's Terms & Conditions throughout the award process and contract performance duration. Terms & Conditions are negotiable for mutual agreement/contract; final Terms & Conditions are at the sole discretion of the College.

### [Bid Prices to Remain Firm](#)

All bid prices/Commission Rates submitted in response to this RFR must remain firm for 90 days following the bid opening through the award date of the contract execution.

## Unforeseen Office Closure

If, at the time of the scheduled bid opening, the Business Office is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the bid opening will be postponed until 2:00 p.m. on the next normal business day. Bids will be accepted until that date and time due to any unanticipated closing.

## **II. Purchase Description/Scope of Services**

### General Description

To operate an On-Site, Full-Service Cafeteria, Food Cart, and Catering Service at the Bunker Hill Community College Campus located at its Charlestown site. It shall be the Food Service provider's responsibility to provide a total food service operation, including but not limited to the purchasing, on-site cooking, preparation, refrigeration and distribution, of food in the cafeteria and café area of Bunker Hill Community College. The Food Service provider will prepare and serve onsite Menu entrees, onsite sandwich making, salads and short-order cooking preparation and demand for Students, Faculty, Staff and Visitors. The Food Service provider will offer a Menu that blends the student body needs but is not limited to offering culturally diverse and healthy choice options. A combination of Market Basket Menus offerings that is standard within a college offering plus a Menu that offers nutritional value/healthy choice is recommended. The provider will be allowed to cater BHCC events with limited exceptions as agreed upon to the College's Culinary Arts Program and Student Activities Department. The number of limited exceptions will be negotiated by the College and the food service provider.

### Contract Term Length and Renewal Options

The contract period will run for an initial three (3) year period from July 1, 2013 through June 30, 2016; with two (2) one (1)-year options to renew; the College may issue the renewal options from July 1, 2016 to June 30, 2017; and from July 1, 2017 to June 30, 2018. Options to renew the contract will be determined at least 90 days prior to the end of the three (3) year period. This bid requires majority vote approval of the BHCC Cafeteria/Food Service Procurement Team before any contract is approved with the selected Vendor.

### Price Submission

The Concessionaire will be required to maintain a price/portion schedule which does not exceed that to be found in public restaurants and cafeterias in the immediate vicinity of the College; and all efforts are to be made to keep prices comparable or lower than those found in the immediate area. All bidders are required to submit a price/portion schedule with their bid for all cafeteria items sold: breakfast, entres, sandwiches, pastry, coffee, tea, etc. (refer to page # 22 & Bid Price Sheet Attached.)

### Performance Standards

- The quality of service & food is essential to satisfactory performance.

Quality rating of raw food shall be no less than the standards of USA Grade A or equivalent as the case may be for meat, fish, poultry, eggs, dairy products and produce—fresh or frozen. Ground beef shall not exceed 20% fat content. All canned foods shall be USA Choice or fancy. No dented cans, cans with swollen tops or bottoms or rusted cans are permitted.

All foods shall be served wholesome and free from spoilage and decay. All food processing will be on-site such as, but not limited to, entrees, salads, sandwiches, etc. All prepared, packaged items for the Food Cart/Chuck Wagon will be dated/coded for freshness. Uncooked items, such as fresh fruit shall be clean and free from blemish. All foods shall, when served, be attractive in appearance and correct in temperature and consistency. Preference will be for fresh food over frozen food, and frozen food over canned food.

Foods that contain potentially life-threatening substances sensitive to individuals (allergies) will be clearly identified to the consuming public: gluten-free, etc.

- The Food Service provider will comply with all Health/Sanitary Codes as applicable through the local, state and federal government regarding preparation, distribution, cleanliness, and storage of all equipment and food. Whenever a standard is in conflict with another standard, the higher standard will prevail. Employee's conduct must be professional with customers and staff; employees must maintain a sanitary Dress Code for cleanliness and appearance.
- Alcoholic Beverages & Gambling: Alcoholic beverages are not authorized for sale or use on campus. Gambling and the use of unlawful gambling devices are not authorized.

### Government or Industry Standard

Bidder must list any Industry or Government Associations to which it is a member which is applicable to the Food Service Industry.

### Basis of Compensation

Commissions will be paid to Bunker Hill Community College as a percentage (%) of Total Sales Revenue. Commissions will be paid monthly on the 15th of the following month and will include detailed backup of sales by Cafeteria Sales, Food Cart and Catering Sales, via Cash and POS Debit Card/Credit Card Sales, such as via the BHCC Student One Card.

Cost of Goods Sold and Administrative Expenses will be listed, inclusive of Commission

expense. Commission rates will be based on Net Sales (Gross sales less any applicable sales tax and container deposits, no losses can be included in this calculation). Past total sales and associated commissions are listed for informational purposes and are as follows: per Fiscal Year: July 1<sup>st</sup> to June 30<sup>th</sup>.

	<u>Food Service Sales</u>	<u>Commissions</u>	<u>%%%</u>
<b>FY-2009</b>	<b><u>\$766,704.00</u></b>	<b>\$53,689.00</b>	<b>7.0%</b>
Cafeteria:	\$486,421.00		
Catering:	\$280,283.00		

<b>FY-2010</b>	<b><u>\$816,858.00</u></b>	<b>\$57,180.00</b>	<b>7.0%</b>
Cafeteria:	\$493,063.00		
Catering:	\$323,795.00		

<b>FY-2011</b>	<b>\$966,420.00</b>	<b>\$67,649.00</b>	<b>7.0%</b>
Cafeteria:	\$615,034.00		
Catering:	\$351,386.00		

<b>FY-2012</b>	<b><u>\$1,097,621.00</u></b>	<b>\$76,833.00</b>	<b>7.0%</b>
Cafeteria:	\$680,419.00		
Catering:	\$417,202.00		

<b>FY-2013</b>	\$517,993.00	\$36,259.00	<b>7.0%</b>
Cafeteria:	\$344,409.00	6-Month Period: July-December	

Catering: \$173,584.00

6-Month Period: July-December

Description of Services      **TASKS: By the CONCESSIONAIRE**

1. Provide all food and other consumable and associated products.
2. Standard on-site food processing, preparation, storage and serving equipment and small wares, purchased new and not rebuilt for use in connection with this contract at this installation, for use in the areas noted: Cafeteria and Food Cart, for the purpose of providing complete on-site cafeteria food services to, for and at the College, which is not provided by the College.
3. All cooking and meal preparation to be performed on site at the College, using College supplied and Concessionaire provided equipment. College facilities, equipment and utilities are not to be used for food preparation for use at any other location, except for specifically approved off-campus College events. No employee with open wounds or communicable disease will be allowed to prepare, serve or package food for consumption. The Concessionaire shall meet the state's requirements of freedom from communicable tuberculosis in accordance the General Laws, per Chapter 71, Part 55b .
4. No less than one (1) table-bussing person will be on duty at all times when food or beverages are being served through the manual operation of the food service.
5. All table-bussing, tabletops, chairs, planter sides and general cleaning (including walls to a reasonable height) of the Cafeteria (E-Bldg. 4<sup>th</sup> Floor) and Food Cart/Cafe Area (located in the B-Bldg. Lobby) and floor care up to and including preparation for buffing and/or waxing in the Dining Area spot mopping, spillage cleanup, sweeping, removal of trash, stacking of chairs (as needed) with Concessionaire re-setting of chairs, as required, and all floor care and general cleaning. Cleaning materials, schedules and procedures are to be as approved by the College. Provide MSDS sheets for all purchased cleaning chemicals/solvents.
6. Removal of all trash, refuse and garbage from the Dining Area, Food Cart/Café area and designated areas for which Catering is a provided service and all other food service areas at the College to designated compacting or holding areas at the delivery/shipping dock area. Trash receptacles must be cleaned thoroughly at least once per week.
7. Agrees that under no circumstances neither the College restrooms nor janitor's closets are to be used for storage of cleaning equipment, utensils, etc. or as a source of water.
8. Maintenance and/or replacement, as applicable, for all Concessionaire-provided equipment, in a manner compatible with the existing facilities, at all times, during

the life of this contract, upon the event of non-renewal, cancellation, termination or expiration of the contract, for all items, in accordance with appropriate sanitation and health codes, and in accordance with manufacturer's warranties and preventative maintenance procedures as well as emergency repairs, all at the sole cost of the Concessionaire. The Concessionaire may provide and install, at its own expense, additional equipment after first receiving the approval of the College.

9. Assume sole responsibility for securing, maintaining, and paying for any and all relevant licenses, permits, clearances, approvals, fees and taxes required by any and all Federal, state, County or City laws or statutes without recourse to the College as required for its performance under the contract; and shall post or display in a prominent place such permits and/or notices as required by law.
10. Provide all required and necessary related personnel and labor and provided with appropriate and distinctive clothing and name tags which are to be worn during all working hours; all personnel shall present a clean and hygienic appearance at all times. Personnel shall not be less than eighteen (18) years of age. The Concessionaire agrees to full compliance with applicable federal and state law regarding Equal Employment Opportunity and Affirmative Action as contained in Part 202, Executive order 112246 and Part 60-741.4 of the U S Department of Labor; Chapter 60, Part 60-741 relating to Affirmative Action Obligations for Handicap Workers.
11. Provide all customary insurance coverage, throughout the life of this agreement without recourse to the College and so as to hold the College harmless. For all insurance required herein, including the bonding referred to in "Bonding Requirements", Page #2, a certified copy of each policy or certificate of such insurance shall be delivered to the College within fifteen (15) calendar days after the signing of this document by both parties. Each certificate or instrument shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) calendar days written advance notice thereof to the College. If determined necessary by the College, the Concessionaire shall deliver to the College, upon demand, the original of any policy herein for review, and upon completion of said review, said policy shall be returned to the Concessionaire. Said policies shall contain the following provisions:

"The insurance company waives any right of subrogation against Bunker Hill Community College, The Board of Higher Education and the Commonwealth of Massachusetts or any of their officers, trustees or agents which may arise by reason of any payment under this policy."

Comprehensive  
General Liability



Bodily Injury & Property Damage: \$1,000,000.00 Each Occurrence  
\$2,000,000.00 Aggregate

12. The Concessionaire indemnifies the Awarding Authority, the Board of Higher Education, the Commonwealth of Massachusetts, and Bunker Hill Community College, their employees and agents from any liability during the receipt, service and sale of food items or from any act of the food service provider, or from any of its employees, agents, or authorized subcontractors in the performance of its obligations under agreement.
13. Maintenance of accurate and complete financial and narrative records for sales, expenses, and commissions; a report of which shall be provided on a monthly basis to the College by the 15<sup>th</sup> day of the following month with the submission of the commission payment. Maintain Electronic Point-Of-Sales (POS) capability system with the cafeteria area and/or food cart area at no cost to the College. Records: The successful bidder shall maintain books, records and other compilations of data, pertaining to the performance of its obligations. The Governor, the State Auditor or their designees shall have the right, at reasonable times and upon reasonable notice, to examine and copy the books, records and other compilations of data that are required to be maintained hereunder.
14. Business Continuity Plan: to be submitted as an element of the bidder's proposal. In case of an emergency, the awarded bidder may be asked the following:
  - Indicate whether there is a written Business Continuity Plan describes how your company will continue to do business in case of an emergency: such as a natural disaster, fire, etc to the awarded bidder's physical business structures.
  - Specify work recovery measures, and the means to re-establish physical records while maintaining Food Service at the College
15. Maintenance, at all times during the life of the contract, of the minimum inventory of china, flatware, etc. as existing on July 1, 2013 and of the same pattern and manufacture as originally supplied. In the event of non-renewal, cancellation or termination of this contract, at any time and for any reason, the Concessionaire agrees to provide full replacement up to the stated minimum inventory no later than the last day that the contract remains in force.
16. The College is to be under no obligation to purchase or otherwise assume ownership of or responsibility for any equipment, furnishings, china, flatware or other materials owned or otherwise held by the Concessionaire in excess of those items specified as being on hand on July 1, 2013.
17. Concessionaire agrees that no polystyrene foam products containing CFCs will

be used on that campus and that wherever possible foam and plastics will not be used but replaced by recycled paper products. The Concessionaire agrees to use Environmentally Preferable Products (EPP) during the duration of the awarded contract and contract renewal years per the Governor's Executive Order 515: Establishing An Environmental Purchasing Policy.

18. The College requires that the Concessionaire operate and tend a daily coffee service from 7:30am to 1:00pm on designated days to be located in an area separate from the Cafeteria and Food Cart area for the exclusive use of College employees, meetings and small conferences throughout the College.
19. The Concessionaire agrees to perform a Catering Service for the College at various times, days and Special Event functions on an as yet needed basis by the College. The service will include, but is not limited to, on-site Food Service Items, Tables, Chairs, Linen Service Items, etc. The Concessionaire agrees that all catering services requested by the College will require a valid Purchase Order issued by the Business Office of the College.
20. The Concessionaire will provide an annual Utility Fee of \$1,000.00, in addition to commissions to the College to be paid on July 1<sup>st</sup> of each year that the contract remains in force.
21. Assignment: The Concessionaire shall not assign or subcontract, in whole or in part, its rights or obligations under the contract without prior written consent of the College; any attempted assignments without consent shall be void. Subcontractors are required to meet the same state, federal, and local standards and reporting requirements as listed in this RFR.
22. Price changes upward from those listed in the Concessionaire's proposal will be permitted to become effective only at periods of breaks between semesters or sessions (typically mid-January & late August) with no less than fifteen (15) calendar days prior notice to the College in writing. Price changes downward are permitted at any time.
23. The Concessionaire shall pay all vendors in a timely manner, according to agreement with the vendor so as not to interfere with the delivery of goods and/or services to the College.
24. The Concessionaire shall keep itself fully informed of all Federal, State and Local laws, municipal ordinances, building and health codes which pertain to those engaged or employed in the work, or the materials and equipment used or employed in the work of food service.
25. As a food service provider to an institution receiving Federal funds, the

Concessionaire shall accept full responsibility for disabled persons as provided in the American Disability Act (ADA of 1993) in situations where the College is otherwise in compliance.

26. Provide and Publish a four (4) week Market basket menu on the College's website while identifying healthy choice entrees. Hard Copy menus will be displayed throughout the College's high-traffic areas and corridors for public view.
27. Prompt response to all food service complaints by the on-site Food Service Manager for any and all issues to the Food Service Contract; the College's Contract Manager will be notified of all food service complaints.

### **FACILITIES & SERVICES PROVIDED AT THE COLLEGE**

1. A/C, heat, light, power and water. Additional pipeline extensions, hookups and other utility-related modifications are at the Concessionaire's sole expense and must be submitted to the College for prior approval.
2. All tables, chairs, floor planters, and waste receptacles in the Cafeteria and Food Cart area.
3. Rubbish removal from designated compacting or holding areas on the receiving/shipping dock area.
4. Window treatments, plants in planters, ceiling light fixtures and painted walls as existing on July 1, 2013 throughout the appropriate food service areas.
5. Equipment (installed permanent and portable) as existing in the areas on July 1, 2013.
6. Parking facilities as provided for regular College support personnel.
7. Original supply of china, flatware, etc. as existing in the area on July 1, 2013.
8. One telephone connecting to the College's system reserved only for on-campus calling and receipt of incoming telephone calls.
9. Buffing and/or waxing, as needed and determined by the College, of floor surfaces in the dining area & café area.

### **III. Quality Requirements**

1. The Concessionaire agrees that the quality and nutrition of food is to be equal to or to exceed that to be found in the immediate area and as recommended by the

Commonwealth of Massachusetts Department of Public Health while implementing the Governor's Executive Order 509: Establishing Nutrition Standards for Food Purchased by State Agencies.

2. The Concessionaire must have been in the business of providing Food Service for a minimum of (3) three years. The bidder primary business must be in the Food Service and Catering industry with consideration given to past and /or current Food service and Catering experience in Higher Education.
3. The Bidder must list past Bankruptcies, Litigation History and Food Service Contract Defaults.
4. The assigned Food Service Manager must have at least (3) three years of Food Service/Catering and supervisory experience.

#### **IV. References**

Bidder references must be submitted under separate cover to the College's contract manager for the RFR. A complete list of three (3) customers who have had the proposed Cafeteria, Food Cart and Catering Services operation for at least the past two (2) years, with contact names and telephone numbers. Bunker Hill Community College is not to be used as a reference by the current food service vendor. Use the attached Reference Form and assigned questions on Page #19 & #20.

Bidders must provide information about their company in the following areas as evidence of Bidder Qualifications for the proposed service and contract. The information guideline provided is not limited to the following; please refer to the Rule of Award section of the RFR, page #21.

- Experience & Management Philosophy about Service & Food Quality and a summary of the company's historical background in the Food Service Industry.
- Key Staff and Management and resumes of key employees.
- Past and/or current contractual agreements for Food Service and Catering experience. List all contractual agreements in the field of Higher Education.
- Professional Affiliations and Trade Associations & Insurance Coverage
- Financial Reference Credit Report from CPA; last three (3) years of audited, certified financial statements; Sample Net Income for one (1) year.
- Must be registered as a legal entity to conduct business in the state of Massachusetts. Must provide your company's EIN# via W-9 Tax ID Form (attached)
- Must supply a current Massachusetts Department of Revenue (DOR) "Certificate of Good Standing" or "Letter of Compliance", as appropriate to business or individual. This is to certify compliance with all Commonwealth tax laws, including MGL c62C, §49A. If the required Massachusetts DOR document is not submitted with the Response, then respondents must include copies of the

request for said compliance documents from DOR in their Response. DOR documents certifying tax compliance must be received before any award of contract can be made. More information regarding these DOR documents are posted at <http://www.mass.gov/dor>

## **COLLEGE CONDITIONS**

Bunker Hill Community College will not be liable for any costs incurred by respondents in the preparation and production of a bid or the costs of any services performed prior to receiving approval of the agreement from the Commonwealth of Massachusetts. All bids and materials submitted in conjunction with the bids shall become the property of Bunker Hill Community College for use as deemed appropriate, respecting all copyrights.

1. Bunker Hill Community College reserves the right to modify the requirements of this bid after its release. All bidders will be notified of any modifications to the requirements of this proposal. Wherever the College is referred to herein, such reference will be to the President or his/her specific designee, as stated periodically in writing during the term of the contract.
2. Bidders who submit a response may be required to give an oral presentation to Bunker Hill Community College. This shall provide an opportunity for a bidder to clarify or elaborate on the bid, but shall in no way change the original bid. The College shall schedule the time and location, if needed.
3. By submitting a bid, the bidder agrees that it will not make any claims or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.
4. The successful bidder will be notified by the issuing RFR Contract Manager by telephone and confirmation by letter. The Contract will incorporate at least this bid and the contractor's response.
5. Omissions, inaccuracy or misstatements may be sufficient cause for rejection of the bid. Please refer to the Forms & Terms section in COMM-PASS
6. The Agreement, if awarded, shall be governed and construed in accordance with the laws of Massachusetts. Attached forms shall be completed and signed/sealed by the bidder.
7. All bidders and their employees must be aware of and comply with the requirements of the Commonwealth of Massachusetts Conflict of Interest Laws, and all other appropriate provisions of the Commonwealth of Massachusetts Law and resultant codes, rules, and regulations from Commonwealth laws establishing the standards for business with the Commonwealth. In signing the bid, each bidder guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales contracts, services, offers, relationships, etc.

involving the Commonwealth and/or Commonwealth employees. Failure to comply with those provisions may result in disqualification from the bid process and in other civil or criminal proceedings as required by law.

8. Should either the College Facilities expand with built/leased buildings, or Academic Programs and/or Services expand or additional space becomes available in its structure, during the life of this contract, then the successful bidder will be given right-of-first-refusal to perform/deliver cafeteria, catering and/or food cart services if the College deems this service is warranted.
9. The contract does not allow for the successful bidder to operate any coin-operated vending machines during the life of the contract. The Concessionaire has exclusive rights, with the exception of "bake sales" and similar fundraising activities by recognized student, faculty or staff organizations and activities otherwise operated by the College, for the manual sale of food, beverages, and snacks on College property within the confines of its Food Service designated areas. Pre-packaged snacks and candy rights are non-exclusive and shared with the College Bookstore and the College Vending Service.
10. The College reserves the right, through its Academic Food Service program to provide a daily laboratory-based luncheon service in any College facility but not utilizing the regular Cafeteria service.
11. It is understood that the College's Academic Food Service program will have refusal rights for any catered events held on-campus by any official agency of the College or by any approved off-campus group. The Concessionaire will have right-of-first-refusal to provide food services to any non-College group or organization in the College's facilities. If agreed upon, such sales from the approved service will be included in the Total Sales and assessed a pre-determined Commission basis.
12. Subject to reasonable advance notice and daily operational considerations, any food service equipment on-site at the College shall be made available by the Concessionaire for use as an educational aid by the College's Academic Food Service Program.
13. The College reserves the right to conduct regular inspections and examinations of all Food Service Areas for the purpose of checking equipment and verifying compliance with all of the appropriate sanitation and health codes. Such inspection will not relieve the Concessionaire of the legal responsibility in regard to other terms of this agreement or of the direct responsibility to observe codes without recourse to the College and so as to hold the College harmless. The College reserves the right to apply standard, acceptable measures and criteria in performing such inspections as applied by the Health Codes of the City of Boston, the Commonwealth of Massachusetts, and other appropriate local state

agencies and to demand immediate corrective action on the part of the Concessionaire. Failing such action, the College reserves the right to arrange for corrective and/or proper maintenance of equipment and corrective and proper cleaning to meet sanitation and health codes through the use of its own employees or by employment of outside services and to pass on the direct and indirect costs for such work to the Concessionaire.

14. The terms, offers, inducements and other statements made by and included in the Concessionaire's proposal---including, but not limited to, those dealing with staffing levels, staff hours, pricing, commissions and hours of operation---will be incorporated as part of the contract as they are superceded, amplified or amended by a specific portion of this document.
15. **FORCE MAJEURE:** If by reason of strike or other labor disputes, civil disorders, inclement weather, acts of God, or other unavoidable cause, either party is unable to entirely perform its obligations, such nonperformance shall not be considered a breach of contract.
16. **Survival:** the terms, conditions, representations, and warranties contained in the contract shall survive the termination or expiration of the contract.
17. The College shall have the right to install any additional equipment and make any alterations to the facilities, in a manner compatible with the existing facilities.
18. The College shall reserve the right to select another Food Service Vendor to provide food service to any designated Cultural Event as indicated by the College which addresses the uniqueness and diversity of the event.
19. **Successor Ship, Assignment & Sub-Contracting:** No part of the Contract shall either be assigned or sublet without the prior written approval of the College and the setting forth of requirements to be met. If the Contractor becomes insolvent, bankrupt, or a declaration occurs that it cannot complete its food service contract, then the College reserves the right to assign the balance of the existing food service contract timeframe to another food service provider for the food service function.
20. **Contractor's Signature:** The Bidder's ink signature on the Bid Proposal form shall be held as evidence that the Bidder has examined the site and satisfied itself as to all the requirements, works, conditions, and constraints for the proper execution of the proposed service. Such signature acknowledges that the Bidder fully understands the Scope of Service for Food Service to the College. The Bidder must sign and date the Signatory Authorization Form and submit it with the bid documents. Failure to provide such form may be considered a major omission and a bidder's submission may be rejected.
21. **The College's Right to Terminate the Contract:**

If the Bidder should be adjudged bankrupt, or if the Contractor should make a

general assignment for the benefit of Bidder's creditors, or if a receiver should be appointed on account of Bidder's insolvency, or if the Bidder should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled personnel or proper materials, or if Bidder should fail to make prompt payment to its vendors or for material or labor, or persistently disregard laws, ordinances or the instructions of the College, or otherwise be guilty of a substantial violation of any provision of the Contract, then the College, upon the certification of the College that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the Bidder, and the surety if any, seven (7) calendar days' written notice, terminate the employment of the Bidder and take possession of the Food Service premises and of all materials. In such case the Bidder shall not be entitled to receive any on-site Food Service functions until the Work is finished. The expense incurred by the College as herein provided, and the College shall certify the damage incurred through the Bidder's default and require payment from the Bidder to make-whole the Food Service contract.

22. Executive Order Number 195: The governor or his/her designee, the Secretary for Administration & Finance, and the State Auditor or his/her designee shall have the right at reasonable times and upon reasonable notice to examine the books, records and other compilations of data of the successful Bidder and subcontractors that pertain to the performance of the provisions and requirements of the proposed Contract.

23. Executive Order Number 524: All bidders are required to participate and commit a plan in the Supplier Diversity Program. Please contact: Gladymar Parziale, 617-720-3166 to assist in selecting a vendor [gladymar.parziale@state.ma.us](mailto:gladymar.parziale@state.ma.us)

Supplier Diversity Program (SDP). Massachusetts Executive Order 524 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Supplier Diversity Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the SDP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage bidder's participation of SDP objectives, the Supplier Diversity Program (SDP) Plan for large procurements greater than \$150,000. Once an SDP Plan is submitted, negotiated and approved, the College will then monitor the bidder's performance, and use actual expenditures with SDO certified contractors to fulfill their own SDP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size; however, submission of an SDP Plan is mandated only for large procurements over \$150,000. SDO Confirmation Letter must accompany the SDP Plan as evidence of their M/WBE designation.



- This RFR will contain some or all of the following components as part of the Supplier Diversity Program Plan submitted by bidders:
- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR and/or Ancillary use of certified M/WBE firms,
- Growth and Development activities to increase M/WBE capacity,

All certified businesses that are included in the bidder’s SDP proposal are required to submit an up to date copy of their certification letter. For further information on SDO certification, contact the Supplier Diversity Office at (617) 502-8831 or via the Internet at [www.mass.gov/sdo](http://www.mass.gov/sdo). Other resources are available to M/WBE firms that may qualify for SDO certification at [www.mass.gov/sdp](http://www.mass.gov/sdp).

Supplier Diversity Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder’s Supplier Diversity Program (SDP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

<http://www.mass.gov/governor/legislationexecorder/executiveorder/>

Executive Order Number 515: Environmentally Preferable Products (EPP):

“Products and services purchased by state agencies must be in compliance with Executive Order 515. Departments are required to reduce their impact on the environment and enhance public health by procuring environmentally preferable products and services (EPPs) whenever such products and services perform to satisfactory standards and represent best value, consistent with 801 CMR 21.00 in line with directive, all contracts, whether department or statewide, must comply with the specifications and guidelines established by OSD and the EPP Program. EPPs are considered to be products and services that help to conserve natural resources, reduce waste, protect public health, and promote the use of clean technologies, recycled material, and less toxic products.”

<http://www.mass.gov/governor/legislationexecorder/executiveorder/>

**REFERENCE FORM: sent under separate cover to the RFR Manager**

Bidder: \_\_\_\_\_

RFR Title: \_\_\_\_\_

**Bidder must provide references for:**

A list of three (3) current customers who have had the proposed **Cafeteria, Food Cart and Catering Service** for at least two (2) years with contact names and telephone numbers.

Reference: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_  
Description and date(s) of supplies or services provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_  
Description and date(s) of supplies or services provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_  
Description and date(s) of supplies or services provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

attach additional sheets if necessary

**REFERENCE FORM Questions**

To be Submitted under separate cover with Reference Letterhead via the U S Postal Service to the College's RFR Contract Manager prior to the Close Date of the RFR.

Business references are required from customers with whom there is a standing business relationship of two years or greater duration. Values are averaged from references supplied to PMT by RFR due date. Answers values are from zero to five; five (5) is the highest value and zero (0) the lowest value.

Question 1. Bidder's willingness and ability to provide contracted services - likelihood of your future use:

5 4 3 2 1 0

Question 2. Bidder's ethical approach, integrity, responsiveness and effectiveness in resolving problems

5 4 3 2 1 0

Question 3. Bidder's communication, leadership, thoroughness and the availability of key personnel:

5 4 3 2 1 0

Question 4. Bidder's organizational approach to reporting, internal controls, & meeting emergency needs:

5 4 3 2 1 0

Question 5. Including compliments and complaints on this business, your overall ranking is:

5 4 3 2 1 0

**V. Rule for Award** : for the RFR and its Contract

The Procurement Team will select the response which demonstrates the **best value** overall that will achieve the procurement goals of the College. This RFR is a revenue generating contract to the College yet Prices must reflect the student body composition.

The contract for all three (3) years will be evaluated based on the following criteria:

1. A proven management philosophy that produces excellent service and quality food. Internal control procedures and staffing will be considered.

2. Sample Market basket menus offering quality food product, healthy & good nutrition, and creative appeal. The menu should be inclusive of a menu for vegetarian students, staff, and non-college staff. Proven ability to prepare authentic foods representing various countries and cultures without the use of substitute ingredients so as to accommodate the diversity of the student body, faculty and staff.
3. Commission, as a percentage of Sales, to the College. A multi-tiered commission schedule is preferred.
4. Assessment of contacted references as submitted under separate cover by the Bidder references.
5. Bidders with proven success in effectively increasing dining and catered sales through marketing strategies, while controlling costs.
6. All required/manadatory documents as listed in the RFR on COMM-PASS
7. Acceptance of an approved Bid Pricing Sheet with reasonable costs for the diverse student body, faculty and staff.
8. Staffing Pattern with scheduled Hours of Operation: Sunday –Saturday.
9. Evidence of the bidder's capacity and experience in performing the services as presented in this RFR, including any past or current experience in Higher Education.
10. List of applicable Food Service Industry Associations & Continuity Plan
11. Department of Revenue Update Form and Letter of Good Standing from CPA.
12. Supplied Diversity participation Form (SDP Form) and an Environmental Plan.

## **VI. Bid Pricing Sheet (per Attachment)**

Bidder will supply a pricing schedule and portion proposal/'Market Basket' for all manual items to be sold which includes but is not limited to the following. Cafeteria prices will be consistent with the Food Cart prices.

- Breakfast: hot meals, cereals.
- All Entres/Soups/Salads
- Sandwiches, Wraps, etc.
- Coffee/Tea/Milk: (oz)
- Soda & Water Drinks, etc. (oz)

- Incidentals: Candy/Chips, Donuts, Bagels, etc, other Items

### **COMMISSION SCHEDULE**

Concessionaire will stipulate what Commission Rate it will apply throughout the contract period as a percentage (%) of Net Sales (as per Page 5: Compensation).

- All three (3) Years:                                      Commission Rate: \_\_\_\_\_

### **BASIC COLLEGE DATA**

1. The Charlestown Campus consists of six (6) College Buildings and a modular structure adjacent to the Building D. All buildings are connected via regular corridor levels. The H-Building is a leased space at 570 Rutherford Avenue.
2. The Cafeteria is located on the fourth (4<sup>th</sup>) floor of the Building E; and the Food Cart/Café area is located on the main concourse area on the second (2<sup>nd</sup>) floor of the Building B.
3. The class schedule of the College will approximate 7:00a.m. to 10:00 p.m., plus Midnight Classes, Monday through Friday; and there are classes from 9:00 a.m. to 3:00 p.m. on Saturday and Sunday. Two semesters of 15 class weeks and one examination week; and three summer sessions of six (6) weeks, per session.
4. Enrollment for Bunker Hill Community College is estimated at 13,500 students; the College is non-residential and diverse in its student population.
5. Full-time and Part-time employees are approximately 500. All administrative and support personnel are on a twelve month schedule.
6. The College allows agencies and businesses to rent the BHCC facilities for off-site meetings and functions during its fiscal year.
7. Cafeteria services will be required for the entire contract period regardless of class schedule or vacation period. Changes of times of service during semester

- breaks and summer sessions will be negotiated.
8. The College observes all Federal, State and City of Boston holidays.

**During the Fall & Spring semesters: present schedule**

The **Cafeteria** is open:

- Monday – Thursday 8:00am - 2:30pm
- Friday 8:00am - 2:00pm

The **Food Service Cart** is open:

- Monday – Thursday 6:30am - 7:00pm
- Friday 7:00am - 2:00pm
- Saturday Service 8:00am – 1:00pm
- Sunday Service 8:00am – 1:00pm

**During the Summer season, the Cafeteria is closed.**

The Food Service Cart/Café area in the B-Bldg. Main lobby is open:

- Monday – Thursday 7:00am – 7:00pm
- Friday 7:00am – 2:00pm

## **VII. Non-Collusion Form and Tax Compliance Form**

### **CERTIFICATE OF NON-COLLUSION**

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

\_\_\_\_\_  
Signature of individual submitting bid or proposal

\_\_\_\_\_  
Name of business

**TAX COMPLIANCE CERTIFICATION: Plus Department of Revenue Certificate (DOR)**

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature of person submitting bid or proposal

\_\_\_\_\_  
Name of business

**VIII. Additional Contract Terms and Conditions**

I have read the above listed proposal and agree with its Terms & Conditions, if awarded the contract. Changes in the College's Terms & Conditions can be negotiated; final Terms and Conditions approval rest solely with the College. A Food Service Agreement will be finalized after the contract award and a Commonwealth Standard Contract Form and Terms & Conditions will be completed upon contract award.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Affix: **CORPORATE SEAL**





## PROCUREMENT CALENDER

- Release of RFR on Comm-Pass: Thursday, February 28, 2013
- Pre-Bid Conference: Thursday, March 28, 2013 @ 10:00 AM, E-175
- Written Questions Due: Tuesday, April 9, 2013
- Answers Posted to Comm-Pass: Friday, April 15, 2013
- **Bidder Response Due:** **April 26, 2013 by 1:00pm**
- Evaluation Period: By Friday, May 10, 2013
- Anticipated Award Date: May 20, 2013

## CHECKLIST

- Procurement Calendar (page 26)
- Signed (page 25) RFR delivered by April 26, 2013 : by 1:00pm
- Non-Collusion Form (page 24)
- Tax Compliance Certificate (page 24), Plus Department of Revenue Form
- Financial Reference Credit Report or D & B
- Contractor Authorized Signature Verification Form (**Attachment**)
- Reference Form (pages 19 and 20)—Questions to be received under separate cover
- Bid Pricing Sheet (page 22 & Attachment)
- Commission Proposal (page 22)
- Sample Market Basket Menu(s)
- W-9 Tax ID Form (Original) as a Registered Vendor in Massachusetts (**Attachment**)
- Copy of Liability Insurance
- Staffing Pattern Proposal & Business Continuity Plan
- Supplier Diversity Plan (SDP) page #17 & #18 (Attachment)
- Environmental Plan (EPP) Page #18 Attachment
- Hours of Operation/Schedule (page 23)
- Sample Income Statement Sales/Expenses/Net Income
- Performance Bond Requirements (page 2)
- Summary: Experience & Management Philosophy/Key Staff Listing (page 13)
- Listing of Industry & Government Associations in Food Service Industry Financial references
- Rule of Award (page 21)---All forms on COMM-PASS listing Forms & Terms

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AGREED COMMISSIONS RATES TO BUNKER HILL  
COMMUNITY COLLEGE

CAFETERIA SALES FROM	CAFETERIA SALES TO	COMMISSION RATE
0.00	\$ 425,000.00	7.0%
\$ 425,000.00	\$ 475,000.00	7.1%
\$ 475,000.00	\$ 525,000.00	7.30%
\$ 525,000.00	\$ 575,000.00	7.50%
\$ 575,000.00	\$ 625,000.00	7.70%
\$ 625,000.00	\$ 650,000.00	7.90%
\$ 650,000.00	\$ 675,000.00	8.00%
\$ 675,000.00	\$ 700,000.00	8.20%
\$ 700,000.00	and Above	8.30%

CATERING SALES FROM	CATERING SALES TO	COMMISSION RATE
\$ -	\$ 200,000.00	8.0%
\$ 200,000.00	\$ 300,000.00	10.0%
\$ 300,000.00	\$ 325,000.00	11.0%
\$ 325,000.00	\$ 350,000.00	12.5%
\$ 350,000.00	\$ 375,000.00	13.0%
\$ 375,000.00	\$ 400,000.00	13.5%
\$ 400,000.00	and Above	13.9%

# **BUNKER HILL COMMUNITY COLEGE**

## **FOOD SERVICE AGREEMENT**

### **CAFETERIA, FOOD CART and CATERING SERVICES**

This agreement is made and entered into by and between Bunker Hill Community College (herein referred to as the College) and UNIDINE Food Management (formerly known as FAME, herein referred to as the Concessionaire) relative to the operation of a manual college food service and catering service on the campus of Bunker Hill Community College in the Charlestown District of the City of Boston, Massachusetts 02129 pursuant to RFR: On Site Manual Food Service---BHCC-2013.

WITNESS: that the College and the Concessionaire, for the considerations hereinafter cited, agree as follows:

#### **Article I**

##### **[Contract Renewal](#)**

The initial contract period was for an initial three (3) year period from July 1, 2013 through June 30, 2016. This is a renewal for one (1)-year to extend from July 1, 2016 to June 30, 2017. The renewal is under same Terms and Conditions agreed during the initial contract period.

##### **[Basis of Compensation](#)**

Commissions will be paid to Bunker Hill Community College as a percentage (%) of Total Sales Revenue. Commissions will be paid monthly on the 15<sup>th</sup> of the following month and will include sales by Cafeteria Sales, Food Cart and Catering Sales. Cost of Goods sold and Administrative Expenses will be listed, inclusive of Commission expense. Commission rates will be based on Total Sales. Total Sales and associated Commissions are to be listed as follows: per Month, per Fiscal Year: July 1<sup>st</sup>- June 30<sup>th</sup>. Commissions schedule is as per Table 1 below. The commission rates are in addition to the annual utility fee of \$1000.00

**Table 1**

AGREED COMMISSIONS RATES TO BUNKER  
HILL COMMUNITY COLLEGE

CAFETERIA SALES FROM	CAFETERIA SALES TO	COMMISSION RATE
\$0	\$425,000	7.0%
425000	450000	7.1%
450000	475000	7.1%
475000	500000	7.30%
500000	525000	7.30%
525000	550000	7.50%
550000	575000	7.50%
575000	600000	7.70%
600000	625000	7.70%
625000	650000	7.90%
650000	675000	8.00%
675000	700000	8.20%
700000	725000	8.30%
725000	750000	8.30%

CATERING SALES FROM	CATERING SALES TO	COMMISSION RATE
0	150000	8.0%
150000	175000	8.0%
175000	200000	8.0%
200000	225000	10.0%
225000	250000	10.0%
250000	275000	10.0%
275000	300000	10.0%
300000	325000	11.0%
325000	350000	12.5%
350000	375000	13.0%
375000	400000	13.5%
400000	425000	13.9%
425000	450000	13.9%
450000	475000	13.9%
475000	500000	13.9%

## **Article II**

### **The Concessionaire agrees to provide the following:**

1. Provide all food and other consumable and associated products.
2. Standard food processing, preparation, storage and serving equipment and small wares, purchased new and not rebuilt for use in connection with this contract at this installation, for use in the areas noted: Cafeteria and Food Cart, for the purpose of providing complete cafeteria food services and Catering Services to, for and at the College, which is not provided by the College.
3. All cooking and meal preparation to be performed on site at the College, using College supplied and Concessionaire provided equipment. College facilities, equipment and utilities are not to be used for food preparation for use at any other location, except for specifically approved off-campus College events.
4. No less than one (1) table-bussing person will be on duty at all times when food or beverages are being served through the manual operation of the food service.
5. All table-bussing, tabletops, chairs, planter sides and general cleaning (including walls to a reasonable height) of the Cafeteria (located in E-Bldg) and Food Cart/Cafe Area (located in the B-Bldg. Lobby) and floor care up to and including preparation for buffing and/or waxing in the Dining Area (spot mopping, spillage cleanup, sweeping, removal of trash, stacking of chairs (as needed) with Concessionaire re-setting of chairs), as required, and all floor care and general cleaning. Cleaning materials, schedules and procedures are to be approved by the College.
6. Proper disposal of all food preparation products & grease in accordance to the regulations of the Inspectional Services Division for the City of Boston; Concessionaire will identify its assigned source of disposal to the College, upon its request. Removal of all trash, refuse and garbage from the Dining Area, Food Cart/Café and designated areas for which Catering is a provided service and all other food service areas at the College to designated compacting or holding areas at the delivery/shipping dock area. Trash receptacles must be cleaned thoroughly at least once per week. College employees will not render disposal services for the Concessionaire.
7. Must present its Environmental Plan on an annual basis to the designated College staff per Section IX of the bid presentation for Sustainability: recycling program, use of Energy Star Efficient equipment, use of environmentally friendly products, oil recycling, use of bio-degradable materials, etc that helps reduce waste and inefficiencies within the food service operation within the College while adhering to the Governor's Executive Order 515: Establishing an Environmental Purchasing Policy.

8. Agrees that under no circumstances neither the College restrooms nor janitor's closets are to be used for storage of cleaning equipment, utensils, etc. or as a source of water.
9. Maintenance and/or replacement, as applicable, for all Concessionaire-provided equipment, in a manner compatible with the existing facilities, at all times, during the life of this contract, upon the event of non-renewal, cancellation, termination or expiration of the contract, for all items, in accordance with appropriate sanitation and health codes, and in accordance with manufacturer's warranties and preventative maintenance procedures as well as emergency repairs, all at the sole cost of the Concessionaire. The Concessionaire may provide and install, at its own expense, additional equipment after first receiving the approval of the College.
10. Assume sole responsibility for securing, maintaining, and paying for any and all relevant licenses, permits, clearances, approvals, fees and taxes required by any and all Federal, state, County or City laws or statutes without recourse to the College as required for its performance under the contract; and shall post or display in a prominent place such permits and/or notices as required by law.
11. In carrying out the work covered by the agreement, the Concessionaire will comply with all applicable College, State and Federal laws, statutes, regulations, policies and orders relative to equal employment opportunity, civil rights, non-discrimination, affirmative action, health and safety as they exist at the effective date of the agreement or as they are subsequently promulgated, without recourse to the College and so as to hold the College harmless.
12. Provide all required and necessary related personnel and labor with appropriate and distinctive clothing and name tags which are to be worn during all working hours; all personnel shall present a clean and hygienic appearance at all times.
13. Provide all customary insurance coverage, throughout the life of this agreement without recourse to the College and so as to hold the College harmless. For all insurance required herein, including the bonding referred to in "Bonding Requirements" of \$5,000 as a surety of Performance, a certified copy or each policy or certificate of such insurance shall be delivered to the College within fourteen (14) calendar days after the signing of this document by both parties. Each certificate or instrument shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) calendar days written advance notice thereof to the College. If determined necessary by the College, the Concessionaire shall deliver to the College, upon demand, the original of any policy herein for review, and upon completion of said review, said policy shall be returned to the Concessionaire. Said policies shall contain the following provisions:
  - "The insurance company waives any right of subrogation against Bunker Hill Community College, The Board of Higher Education and the Commonwealth of Massachusetts or any of their officers,



trustees or agents which may arise by reason of any payment under this policy.”

14. The Concessionaire indemnifies the Awarding Authority, Bunker Hill Community College, the Board of Higher Education, and the Commonwealth of Massachusetts, their employees and agents from any liability during the receipt, service and sale of food items or from any act of the food service provider, or from any of its employees, agents, or authorized subcontractors in the performance of its obligations under agreement.
15. Maintenance of accurate and complete financial and narrative records for sales, expenses, and commissions; a report of which shall be provided on a monthly basis to the College by the 15<sup>th</sup> day of the following month with the submission of the commission payment. Will allow an audit of Daily, Weekly or Monthly financial records for Sales, Expenses and Commissions as requested by the College or by an authorized state agency as stated in the RFR of 2013.
16. Should the College provide China, flatware, etc at any time during the life of the contract, the Concessionaire will maintain the minimum inventory of china, flatware, etc. as existing on July 1, 2013 and of the same pattern and manufacture as originally supplied. In the event of non-renewal, cancellation or termination of this contract, at any time and for any reason, the Concessionaire agrees to provide full replacement up to the stated minimum inventory no later than the last day that the contract remains in force.
17. The College is to be under no obligation to purchase or otherwise assume ownership of or responsibility for any equipment, furnishings, china, flatware or other materials owned or otherwise held by the Concessionaire in excess of those items specified as being on hand on July 1, 2013.
18. Concessionaire agrees that no polystyrene foam products containing CFCs will be used on that campus and that wherever possible foam and plastics will not be used but replaced by recycled paper products per the RFR of Food Service-2013.
19. The College requires that the Concessionaire operate and tend a daily coffee service from 7:30am to 1:00pm on designated days to be located in an area separate from the Cafeteria and Food Cart area for the exclusive use of College employees and for meetings and small conferences throughout the College.
20. The Concessionaire agrees to perform a Catering Service for the College at various times, days and special event functions on an as yet needed basis by the College. The Concessionaire agrees that all catering services requested by the College will require a valid Purchase Order issued either by the Business Office of the College or by written approval by BHCC Administration. The Concessionaire agrees to allow the College's Culinary Art's program to cater one (1) College event per semester as determined either by the College's

Administration or by the Culinary Arts program so as not to exceed two (2) events per academic year of the contract.

21. The Concessionaire will provide an annual Utility Fee of \$500.00, in addition to commissions to the College to be paid on July 1<sup>st</sup> of each year that the contract remains in force.
22. Subcontract: The Concessionaire shall not assign or subcontract, in whole or in part, its rights or obligations under the contract without prior written consent of the College. Any attempted assignments without said consent shall be void and of no effect.
23. Price changes upward from those listed in the Concessionaire's proposal will be permitted to become effective only at periods of breaks between semesters or sessions (typically mid-January & late August) with no less than fifteen (15) calendar days prior notice to the College in writing. Price changes downward are permitted at any time.
24. The Concessionaire shall pay all vendors in a timely manner, according to agreement with the vendor so as not to interfere with the delivery of goods and/or services to the College.
25. The Concessionaire agrees to work and market with the College in the promotion of a varied menu that is indicative of the Cultural Diversity of the College, via Promotional Themes, Contests, Ethnic Week, etc per the Concessionaire's response; agrees to produce signage that is appealing to its customers: Student Government, Faculty & Staff; agrees to post a weekly menu on the College Home Page system; agrees to post weekly menus in open areas of the College for public view. Agrees to meet quarterly with the BHCC Food Service Advisory Committee (as per page 14) to assess, recommend and discuss food quality, menu offerings, pricing, sustainability performance and service to the College Community.
26. The Concessionaire agrees to implement at its own expense an Electronic Bank Transfer Debit System (EBT) at the Point-Of-Sale (POS) in the Cafeteria Area for use by the College population, visitors and staff. To provide additional and enhanced technology for student phone applications, on-line ordering and EFT payment via the scan function. This will assist in the Sustainability function and utilization of modern technology for greater efficiencies and effectiveness.
27. The Concessionaire agrees that the College reserves the right to select another Food Service Vendor to provide food service to any designated Cultural Event, as indicated by the College, which addresses the uniqueness and diversity of the College's event. It is agreed that the Chelsea Campus may secure catering services if requested by that campus with the Concessionaire. Agrees to provide the College with a semi-annual Supplier Diversity Plan report per the RFR Food

Service --2013; specifically monitoring the dollar threshold spend for the SDP Partner listed in their proposal to maintain compliance with the Governor's Executive Order 524.

28. The Concessionaire agrees that the on-site Food Service Manager will meet at least quarterly with the designated leadership of the Student Government Association and staff of the Student Activities Department to discuss menu offerings, service issues and other adopted concerns on an as needed basis. Meeting schedules may be adjusted for an as-needed-basis as agreed upon by both parties.
29. The Concessionaire agrees to maintain its corporate policy of screening its Food Service employees concerning health issues with the service of food, as well as background checks for security issues: CORI; as well as bringing an awareness to food allergens, etc.

### **Article III**

The College agrees to provide the following Facilities and Services:

1. A/C, heat, light, power and water. Additional pipeline extensions, hookups and other utility-related modifications are at the Concessionaire's sole expense and must be submitted to the College for prior approval.
2. All tables, chairs, floor planters, and waste receptacles in the Cafeteria and Food Cart area.
3. Rubbish removal from designated compacting or holding areas on the receiving/shipping dock area.
4. Window treatments, plants in planters, ceiling light fixtures and painted walls as existing on July 1, 2013 throughout the appropriate food service areas.
5. Equipment (installed permanent and portable) as existing in the areas on July 1, 2013.
6. Parking facilities as provided for regular College support personnel.
7. One telephone connecting to the College's system reserved only for on-campus calling and receipt of incoming telephone calls, one CPU, Monitor, and Keyboard
8. Buffing and/or waxing, as needed and determined by the College, of floor surfaces in the dining area & café area.

### **III. Quality Requirements**

1. The Concessionaire agrees that the quality and nutrition of food is to be equal to or to exceed that to be found in the immediate area. All foods shall be served wholesome and free from spoilage and decay; all packaged foods will be date labeled for freshness.
2. The Concessionaire will provide a variety of food which will constitute a balanced diet within the context of a single meal; will maintain an awareness for a health conscious consumer, and will attempt to develop menus of authentic cultural foods for the cultural diversity consistent with the College population as submitted and stated by their response as recommended by the Commonwealth of Massachusetts Department of Public Health while implementing the Governor's Executive Order 509: Establishing Nutrition Standards for Food Purchased by State Agencies.

### **Article IV**

#### **COLLEGE CONDITIONS**

##### **Bunker Hill Community College**

1. Wherever the College is referred to herein, such reference will be to the President or his/her specific designee, as stated periodically in writing during the term of the contract.
2. The Agreement shall be governed and construed in accordance with the laws and regulations of and within the Commonwealth of Massachusetts and the City of Boston.
3. Should the College facilities, programs and services expand, or additional space become available in its structure, during the life of this contract, the Concessionaire will be have proprietary rights of first refusal to perform/deliver cafeteria, catering and/or food cart services in the expanded areas as designated by the College.
4. The Concessionaire has the right of first refusal for catering services all College related events with exception to the agreed upon Culinary Arts and Cultural Diversity designated events; the Concessionaire has the right of first refusal for catering services for all Non-College events through the use of the College's Special Events for space rental services. If agreed upon, such sales from the approved service will be included in the Total Sales and assessed a pre-determined Commission basis.

5. The contract does not allow for the successful bidder to operate any coin-operated vending machines during the life of the contract. The Concessionaire has exclusive rights, with the exception of "bake sales" and similar fundraising activities by recognized student, faculty or staff organizations and activities otherwise operated by the College, for the manual sale of food, beverages, and snacks on College property. Pre-packaged snacks and candy rights are non-exclusive and shared with the College Bookstore and the College Vending Service.
6. The College reserves the right, through its Academic Food Service/Culinary Arts program to provide a daily laboratory-based luncheon service in any College facility but not utilizing the regular Cafeteria service.
7. It is understood that the College's Academic Food Service/Culinary Arts program will have proprietary first rights of refusal for any two (2) catered events held on-campus by either/or any agency of the College or by either/or any approved off-campus group or any combination of the above which will not exceed the maximum of the two (2) events per Academic Year. Any increase in the number of events catered by the College's Academic Food Service/Culinary Arts program will require written approval by the Concessionaire. Subject to reasonable advance notice and daily operational considerations, any food service equipment on-site at the College shall be made available by the Concessionaire for use as an educational aid by the College's Academic Food Service Program/Culinary Arts.
8. The College reserves the right to conduct regular inspections and examinations of all Food Service Areas for the purpose of checking equipment and verifying compliance with all of the appropriate sanitation and health codes. Such inspection will not relieve the Concessionaire of the legal responsibility in regard to other terms of this agreement or of the direct responsibility to observe codes without recourse to the College and so as to hold the College harmless. The College reserves the right to apply standard, acceptable measures and criteria in performing such inspections and to demand immediate corrective action on the part of the Concessionaire. Failing such action, the College reserves the right to arrange for corrective and/or proper maintenance of equipment and corrective and proper cleaning to meet sanitation and health codes through the use of its own employees or by employment of outside services and to pass on the direct and indirect costs for such work to the Concessionaire.
9. The terms, offers, inducements and other statements made by and included in the Concessionaire's accepted response---including, but not limited to, those dealing with staffing levels, staff hours, hours of operation, marketing promotions, themes and contests, electronic POS (Point-Of-Sales)---will be incorporated as part of the contract as they are superseded, amplified or amended by a specific portion of this document.

10. FORCE MAJEURE: If by reason of strike or other labor disputes, civil disorders, inclement weather, acts of God, or other unavoidable cause, either party is unable to entirely perform its obligations, such nonperformance shall not be considered a breach of contract.
11. SURVIVAL: the terms, conditions, representations, and warranties contained in the contract shall survive the termination or expiration of the contract.
12. The COLLEGE shall have the right to install any additional equipment and make any alterations to the facilities, in a manner compatible with the existing facilities.
13. Assignment & Successor ship by Concessionaire: the Concessionaire shall not assign in whole or in part or otherwise transfer any interest in this Agreement without the prior written consent of the College. In the event of a business failure due to bankruptcy, insolvency, or a declaration occurs, illness and other elements that causes the Concessionaire not to fulfill its food service obligations, then the college reserves the right to select and assign the balance of the existing food service contract timeframe to another food service provider to perform the food service function to the College.

#### Article V: Termination

1. In the event that the College wishes, for reason of just cause, to terminate the agreement prior to June 30 2017, such termination intent will be sent by certified mail no less than sixty (60) calendar days prior to the intended termination date to an officer of the Concessionaire stating the reason for such intention to terminate. The Concessionaire will have fifteen (15) calendar days in which to remedy the cause, or the agreement will terminate in sixty (60) calendar days from the receipt of said mailed notice. Judgment of satisfactory remediation shall be solely that of the College, but such judgment shall be exercised reasonably and not in an arbitrary or capricious manner.
2. The Concessionaire may withdraw from this agreement only by giving written notice by certified mail to an officer of the College no less than ninety (90) days prior to the intended withdrawal date, which shall fall during a period of a break between semesters or sessions.
3. Prior to the start of the academic year, the College and the Concessionaire will meet to examine sales and marketing techniques for the prior year. Decreases in sales attributed to reduction in enrollments and/or staffing which could not be offset by increased marketing will be considered when reviewing the rate of commission.

#### **During the Fall & Spring semesters:**

The **Cafeteria** is open:

- Monday – Thursday 8:00am - 2:30pm
- Friday 8:00am – 2:00pm

The **Food Service Cart** is open:

- Monday – Thursday 6:30am – 9:00pm
- Friday 7:00am - 2:00pm
- Saturday 8:00am – 3:00pm
- Sunday 9:00am – 2:00pm

**During the Summer season, the Cafeteria is closed.**

The Food Service Cart/Café area in the B-Bldg. Main lobby is open:

- Monday – Thursday 7:00am – 9:00pm
- Friday 7:00am – 2:00pm

\*\*Operational hours are subject to change by the Concessionaire only per the approval of the College; such changes will consider student enrollment trends, verified sales volume, sound business judgment, etc.

#### Article VI

The Concessionaire herewith certifies under the penalties of perjury that it is a corporation registered under the appropriate provisions of the General Laws of the Commonwealth of Massachusetts, and herewith sets forth the names and addresses of all persons having financial interest in this agreement in accordance with the appropriate provisions of the Massachusetts General Laws and other amending or appropriate statutes in force as of the date of this agreement:

There being no others.

The Concessionaire agrees immediately to notify the College of any change in any term of the above paragraph.

#### Article VII

1. The College and the Concessionaire warrant that this agreement represents fairly and completely the total agreement between them and further agree that no change to a provision herein, nor any additional provision, shall be in effect unless both parties shall execute a written agreement signed by persons authorized to act for both parties. It is further agreed that if any portion of this agreement is declared or found to be illegal, unenforceable or void, both parties shall be relieved of all obligation under that portion but the remaining portions

shall be fully enforced; also that forbearance or indulgence in any respect of any portion of this agreement in any single instance shall not be considered a waiver of any term nor of that term in any respect or instance.

2. This agreement and its subsequent duly executed amendments or modifications shall be governed by the laws of the Commonwealth of Massachusetts and any legal actions/proceedings filed relative to this agreement shall be brought in a court of competent jurisdiction within the Commonwealth.
3. The Governor of the Commonwealth of Massachusetts or his/her designee, the Secretary of Administration and Finance or his/her designee, the State Auditor or his/her designee, and the President of the College or his/her designee shall have the right at reasonable times and upon reasonable notice to examine and copy, at reasonable expense, the books, records and other compilations of data of the Concessionaire which pertain to the performance of the provisions and requirements of this agreement.

In witness of the above, the Concessionaire has caused these presents to be signed, in duplicate, in its name and behalf and its corporate seal to be hereto affixed by \_\_\_\_\_ a corporate officer duly authorized to sign such instruments for the Concessionaire on the year and date written; and the College has executed these presents, in duplicate, by its President on the year and day written.

For Bunker Hill Community College:

\_\_\_\_\_  
John K Pitcher, Vice President, Finance and Admin

\_\_\_\_\_  
Date

For the Concessionaire: UNIDINE Food Management

\_\_\_\_\_  
President

\_\_\_\_\_  
Date



CERTIFICATE OF CLERK OF CORPORATION

I do hereby certify, under the pains of perjury, that I am the duly elected Clerk of UNIDINE FOOD Management Inc., a corporation, and as Clerk have charge and custody of the corporate seal, books and records of said corporation; and that the following is a true and complete copy or paraphrase with the same meaning and intent of the resolution adopted by the Directors of said corporation at a meeting duly called and held as indicated below; that said resolution does not contravene the articles of organization or the By-Laws of the corporation and appears in full on the books of the corporation, has not been altered, amended or repealed, and remains in full force and effect at the date hereof.

RESOLVED, that \_\_\_\_\_ of this corporation be and here is hereby authorized to negotiate, execute and deliver, on behalf of the corporation, agreements and contracts.

Date of Meeting: \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Clerk Signature

\_\_\_\_\_  
Typed Clerk Name

(affix seal)

## **Bunker Hill Community College Food Services Advisory Committee**

### **Purpose:**

Meet with the Food Services owner and site manager on a quarterly basis to advise, recommend and address concerns regarding quality and selection of food offerings. Further, the committee will serve as an advocate for students, faculty and staff to ensure that at all times, healthy and nutritional options are available. In addition, the committee will recommend ways for the food services provider to help the College meet its sustainability goals.

### **Committee Membership:**

- Director of Purchasing
- Director of Facilities Management
- Director of Conference Planning and Special Events
- Hospitality Department Chairperson
- Associate Vice President of Student Services or designee
- Four students appointed by SGA President

### **Chairperson:**

Director of Purchasing will serve as Chairperson

**For Food Service Vendor Use  
BHCC Equipment List  
Kitchen**

- 1 ea. Walk-in cooler 18'X 8'
- 1 ea. Walk-in freezer 18 X 8' (inside walk-in cooler)
- 2 ea. 80 qt steam kettles
- 1 ea. Convection steamer - 2 door unit
- 2 ea. Ranges - ring top
- 2 ea. Gas ovens - under ring top
- 1 ea. Baker's Pride Gas Oven 3-door (Pizza)
- 1 ea. 2-Tiereed Infrared broiler
- 1 ea. Holding Warmer Box—2 Door
- 3 ea. Portable Heated Cabinets (C-175)
- 2 ea. Fryolators
- 1 ea. Hobart floor mixers
- 1 ea. 2 bay pot sink
- 1 ea. 2 bay vegetable prep sink with disposal
- 7 ea. 5' x 6' work tables - stainless steel
- 6 ea. 6' portable racks
- 2 ea. Hand sinks
- 1 ea. 20' x 14' storeroom w/ shelving
- 1 ea. Hobart Meat Slicer
- 1 ea. Pot rack
- 1 ea. Manitowo Ice making machine
- 1 ea. Hobart Meat Chopper
- 1 ea. Storage Cabinet (Blue)
- 1 ea. Dishwasher
- 1 ea. Clothing Washer/Dryer combination
- 2 ea. Portable charcoal Grille (1/2 barrels located @ Facility's Plumbing Room)

- 1 ea Fire Flyer Safe (Manager's Office)
- 1 ea Pizza warmer
- 1 ea Hatco Warmer
- 3 ea Coffee Makers
- 2 ea Cashier Counter Booth
- 1 ea 2-Door Freezer Chest
- 1 ea CPU, Monitor, Keyboard

**SERVING LINES: Grill & Deli**

- 1 ea 6 bay steam table
- 1 ea 2' x 4' cold top with sneeze guard
- 1 ea Double van Brewmatic (Cooler #2—storage)
- 1 ea 2 sided prep box
- 1 ea 1 bay sink
- 1 ea. Grill
- 1 ea. 5' prep table
- 2 ea small storage rooms (cooler) (2-door & 3-door)
- 1 ea. Toaster - 4 slice
- 1 ea 2 sided reach in refrigerator
- 3 ea Hand Sink
- 1 ea 5' x 3' salad bar unit
- 1 ea 6'x 15'beverage Island
- 1 ea 2 sided brewmatic

# **BUNKER HILL COMMUNITY COLEGE**

## **FOOD SERVICE AGREEMENT**

### **CAFETERIA, FOOD CART and CATERING SERVICES**

This agreement is made and entered into by and between Bunker Hill Community College (herein referred to as the College) and UNIDINE Food Management (formerly known as FAME, herein referred to as the Concessionaire) relative to the operation of a manual college food service and catering service on the campus of Bunker Hill Community College in the Charlestown District of the City of Boston, Massachusetts 02129 pursuant to RFR: On Site Manual Food Service---BHCC-2013.

WITNESS: that the College and the Concessionaire, for the considerations hereinafter cited, agree as follows:

#### **Article I**

##### **[Contract Renewal](#)**

The initial contract period was for an initial three (3) year period from July 1, 2013 through June 30, 2016. This is a renewal for one (1)-year to extend from July 1, 2016 to June 30, 2017. The renewal is under same Terms and Conditions agreed during the initial contract period.

##### **[Basis of Compensation](#)**

Commissions will be paid to Bunker Hill Community College as a percentage (%) of Total Sales Revenue. Commissions will be paid monthly on the 15<sup>th</sup> of the following month and will include sales by Cafeteria Sales, Food Cart and Catering Sales. Cost of Goods sold and Administrative Expenses will be listed, inclusive of Commission expense. Commission rates will be based on Total Sales. Total Sales and associated Commissions are to be listed as follows: per Month, per Fiscal Year: July 1<sup>st</sup>- June 30<sup>th</sup>. Commissions schedule is as per Table 1 below. The commission rates are in addition to the annual utility fee of \$1000.00

**Table 1**

AGREED COMMISSIONS RATES TO BUNKER  
HILL COMMUNITY COLLEGE

CAFETERIA SALES FROM	CAFETERIA SALES TO	COMMISSION RATE
\$0	\$425,000	7.0%
425000	450000	7.1%
450000	475000	7.1%
475000	500000	7.30%
500000	525000	7.30%
525000	550000	7.50%
550000	575000	7.50%
575000	600000	7.70%
600000	625000	7.70%
625000	650000	7.90%
650000	675000	8.00%
675000	700000	8.20%
700000	725000	8.30%
725000	750000	8.30%

CATERING SALES FROM	CATERING SALES TO	COMMISSION RATE
0	150000	8.0%
150000	175000	8.0%
175000	200000	8.0%
200000	225000	10.0%
225000	250000	10.0%
250000	275000	10.0%
275000	300000	10.0%
300000	325000	11.0%
325000	350000	12.5%
350000	375000	13.0%
375000	400000	13.5%
400000	425000	13.9%
425000	450000	13.9%
450000	475000	13.9%
475000	500000	13.9%

## **Article II**

### **The Concessionaire agrees to provide the following:**

1. Provide all food and other consumable and associated products.
2. Standard food processing, preparation, storage and serving equipment and small wares, purchased new and not rebuilt for use in connection with this contract at this installation, for use in the areas noted: Cafeteria and Food Cart, for the purpose of providing complete cafeteria food services and Catering Services to, for and at the College, which is not provided by the College.
3. All cooking and meal preparation to be performed on site at the College, using College supplied and Concessionaire provided equipment. College facilities, equipment and utilities are not to be used for food preparation for use at any other location, except for specifically approved off-campus College events.
4. No less than one (1) table-bussing person will be on duty at all times when food or beverages are being served through the manual operation of the food service.
5. All table-bussing, tabletops, chairs, planter sides and general cleaning (including walls to a reasonable height) of the Cafeteria (located in E-Bldg) and Food Cart/Cafe Area (located in the B-Bldg. Lobby) and floor care up to and including preparation for buffing and/or waxing in the Dining Area (spot mopping, spillage cleanup, sweeping, removal of trash, stacking of chairs (as needed) with Concessionaire re-setting of chairs), as required, and all floor care and general cleaning. Cleaning materials, schedules and procedures are to be approved by the College.
6. Proper disposal of all food preparation products & grease in accordance to the regulations of the Inspectional Services Division for the City of Boston; Concessionaire will identify its assigned source of disposal to the College, upon its request. Removal of all trash, refuse and garbage from the Dining Area, Food Cart/Café and designated areas for which Catering is a provided service and all other food service areas at the College to designated compacting or holding areas at the delivery/shipping dock area. Trash receptacles must be cleaned thoroughly at least once per week. College employees will not render disposal services for the Concessionaire.
7. Must present its Environmental Plan on an annual basis to the designated College staff per Section IX of the bid presentation for Sustainability: recycling program, use of Energy Star Efficient equipment, use of environmentally friendly products, oil recycling, use of bio-degradable materials, etc that helps reduce waste and inefficiencies within the food service operation within the College while adhering to the Governor's Executive Order 515: Establishing an Environmental Purchasing Policy.

8. Agrees that under no circumstances neither the College restrooms nor janitor's closets are to be used for storage of cleaning equipment, utensils, etc. or as a source of water.
9. Maintenance and/or replacement, as applicable, for all Concessionaire-provided equipment, in a manner compatible with the existing facilities, at all times, during the life of this contract, upon the event of non-renewal, cancellation, termination or expiration of the contract, for all items, in accordance with appropriate sanitation and health codes, and in accordance with manufacturer's warranties and preventative maintenance procedures as well as emergency repairs, all at the sole cost of the Concessionaire. The Concessionaire may provide and install, at its own expense, additional equipment after first receiving the approval of the College.
10. Assume sole responsibility for securing, maintaining, and paying for any and all relevant licenses, permits, clearances, approvals, fees and taxes required by any and all Federal, state, County or City laws or statutes without recourse to the College as required for its performance under the contract; and shall post or display in a prominent place such permits and/or notices as required by law.
11. In carrying out the work covered by the agreement, the Concessionaire will comply with all applicable College, State and Federal laws, statutes, regulations, policies and orders relative to equal employment opportunity, civil rights, non-discrimination, affirmative action, health and safety as they exist at the effective date of the agreement or as they are subsequently promulgated, without recourse to the College and so as to hold the College harmless.
12. Provide all required and necessary related personnel and labor with appropriate and distinctive clothing and name tags which are to be worn during all working hours; all personnel shall present a clean and hygienic appearance at all times.
13. Provide all customary insurance coverage, throughout the life of this agreement without recourse to the College and so as to hold the College harmless. For all insurance required herein, including the bonding referred to in "Bonding Requirements" of \$5,000 as a surety of Performance, a certified copy or each policy or certificate of such insurance shall be delivered to the College within fourteen (14) calendar days after the signing of this document by both parties. Each certificate or instrument shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) calendar days written advance notice thereof to the College. If determined necessary by the College, the Concessionaire shall deliver to the College, upon demand, the original of any policy herein for review, and upon completion of said review, said policy shall be returned to the Concessionaire. Said policies shall contain the following provisions:
  - "The insurance company waives any right of subrogation against Bunker Hill Community College, The Board of Higher Education and the Commonwealth of Massachusetts or any of their officers,



trustees or agents which may arise by reason of any payment under this policy.”

14. The Concessionaire indemnifies the Awarding Authority, Bunker Hill Community College, the Board of Higher Education, and the Commonwealth of Massachusetts, their employees and agents from any liability during the receipt, service and sale of food items or from any act of the food service provider, or from any of its employees, agents, or authorized subcontractors in the performance of its obligations under agreement.
15. Maintenance of accurate and complete financial and narrative records for sales, expenses, and commissions; a report of which shall be provided on a monthly basis to the College by the 15<sup>th</sup> day of the following month with the submission of the commission payment. Will allow an audit of Daily, Weekly or Monthly financial records for Sales, Expenses and Commissions as requested by the College or by an authorized state agency as stated in the RFR of 2013.
16. Should the College provide China, flatware, etc at any time during the life of the contract, the Concessionaire will maintain the minimum inventory of china, flatware, etc. as existing on July 1, 2013 and of the same pattern and manufacture as originally supplied. In the event of non-renewal, cancellation or termination of this contract, at any time and for any reason, the Concessionaire agrees to provide full replacement up to the stated minimum inventory no later than the last day that the contract remains in force.
17. The College is to be under no obligation to purchase or otherwise assume ownership of or responsibility for any equipment, furnishings, china, flatware or other materials owned or otherwise held by the Concessionaire in excess of those items specified as being on hand on July 1, 2013.
18. Concessionaire agrees that no polystyrene foam products containing CFCs will be used on that campus and that wherever possible foam and plastics will not be used but replaced by recycled paper products per the RFR of Food Service-2013.
19. The College requires that the Concessionaire operate and tend a daily coffee service from 7:30am to 1:00pm on designated days to be located in an area separate from the Cafeteria and Food Cart area for the exclusive use of College employees and for meetings and small conferences throughout the College.
20. The Concessionaire agrees to perform a Catering Service for the College at various times, days and special event functions on an as yet needed basis by the College. The Concessionaire agrees that all catering services requested by the College will require a valid Purchase Order issued either by the Business Office of the College or by written approval by BHCC Administration. The Concessionaire agrees to allow the College's Culinary Art's program to cater one (1) College event per semester as determined either by the College's

Administration or by the Culinary Arts program so as not to exceed two (2) events per academic year of the contract.

21. The Concessionaire will provide an annual Utility Fee of \$500.00, in addition to commissions to the College to be paid on July 1<sup>st</sup> of each year that the contract remains in force.
22. Subcontract: The Concessionaire shall not assign or subcontract, in whole or in part, its rights or obligations under the contract without prior written consent of the College. Any attempted assignments without said consent shall be void and of no effect.
23. Price changes upward from those listed in the Concessionaire's proposal will be permitted to become effective only at periods of breaks between semesters or sessions (typically mid-January & late August) with no less than fifteen (15) calendar days prior notice to the College in writing. Price changes downward are permitted at any time.
24. The Concessionaire shall pay all vendors in a timely manner, according to agreement with the vendor so as not to interfere with the delivery of goods and/or services to the College.
25. The Concessionaire agrees to work and market with the College in the promotion of a varied menu that is indicative of the Cultural Diversity of the College, via Promotional Themes, Contests, Ethnic Week, etc per the Concessionaire's response; agrees to produce signage that is appealing to its customers: Student Government, Faculty & Staff; agrees to post a weekly menu on the College Home Page system; agrees to post weekly menus in open areas of the College for public view. Agrees to meet quarterly with the BHCC Food Service Advisory Committee (as per page 14) to assess, recommend and discuss food quality, menu offerings, pricing, sustainability performance and service to the College Community.
26. The Concessionaire agrees to implement at its own expense an Electronic Bank Transfer Debit System (EBT) at the Point-Of-Sale (POS) in the Cafeteria Area for use by the College population, visitors and staff. To provide additional and enhanced technology for student phone applications, on-line ordering and EFT payment via the scan function. This will assist in the Sustainability function and utilization of modern technology for greater efficiencies and effectiveness.
27. The Concessionaire agrees that the College reserves the right to select another Food Service Vendor to provide food service to any designated Cultural Event, as indicated by the College, which addresses the uniqueness and diversity of the College's event. It is agreed that the Chelsea Campus may secure catering services if requested by that campus with the Concessionaire. Agrees to provide the College with a semi-annual Supplier Diversity Plan report per the RFR Food

Service --2013; specifically monitoring the dollar threshold spend for the SDP Partner listed in their proposal to maintain compliance with the Governor's Executive Order 524.

28. The Concessionaire agrees that the on-site Food Service Manager will meet at least quarterly with the designated leadership of the Student Government Association and staff of the Student Activities Department to discuss menu offerings, service issues and other adopted concerns on an as needed basis. Meeting schedules may be adjusted for an as-needed-basis as agreed upon by both parties.
29. The Concessionaire agrees to maintain its corporate policy of screening its Food Service employees concerning health issues with the service of food, as well as background checks for security issues: CORI; as well as bringing an awareness to food allergens, etc.

### **Article III**

The College agrees to provide the following Facilities and Services:

1. A/C, heat, light, power and water. Additional pipeline extensions, hookups and other utility-related modifications are at the Concessionaire's sole expense and must be submitted to the College for prior approval.
2. All tables, chairs, floor planters, and waste receptacles in the Cafeteria and Food Cart area.
3. Rubbish removal from designated compacting or holding areas on the receiving/shipping dock area.
4. Window treatments, plants in planters, ceiling light fixtures and painted walls as existing on July 1, 2013 throughout the appropriate food service areas.
5. Equipment (installed permanent and portable) as existing in the areas on July 1, 2013.
6. Parking facilities as provided for regular College support personnel.
7. One telephone connecting to the College's system reserved only for on-campus calling and receipt of incoming telephone calls, one CPU, Monitor, and Keyboard
8. Buffing and/or waxing, as needed and determined by the College, of floor surfaces in the dining area & café area.

### **III. Quality Requirements**

1. The Concessionaire agrees that the quality and nutrition of food is to be equal to or to exceed that to be found in the immediate area. All foods shall be served wholesome and free from spoilage and decay; all packaged foods will be date labeled for freshness.
2. The Concessionaire will provide a variety of food which will constitute a balanced diet within the context of a single meal; will maintain an awareness for a health conscious consumer, and will attempt to develop menus of authentic cultural foods for the cultural diversity consistent with the College population as submitted and stated by their response as recommended by the Commonwealth of Massachusetts Department of Public Health while implementing the Governor's Executive Order 509: Establishing Nutrition Standards for Food Purchased by State Agencies.

### **Article IV**

#### **COLLEGE CONDITIONS**

##### **Bunker Hill Community College**

1. Wherever the College is referred to herein, such reference will be to the President or his/her specific designee, as stated periodically in writing during the term of the contract.
2. The Agreement shall be governed and construed in accordance with the laws and regulations of and within the Commonwealth of Massachusetts and the City of Boston.
3. Should the College facilities, programs and services expand, or additional space become available in its structure, during the life of this contract, the Concessionaire will be have proprietary rights of first refusal to perform/deliver cafeteria, catering and/or food cart services in the expanded areas as designated by the College.
4. The Concessionaire has the right of first refusal for catering services all College related events with exception to the agreed upon Culinary Arts and Cultural Diversity designated events; the Concessionaire has the right of first refusal for catering services for all Non-College events through the use of the College's Special Events for space rental services. If agreed upon, such sales from the approved service will be included in the Total Sales and assessed a pre-determined Commission basis.

5. The contract does not allow for the successful bidder to operate any coin-operated vending machines during the life of the contract. The Concessionaire has exclusive rights, with the exception of “bake sales” and similar fundraising activities by recognized student, faculty or staff organizations and activities otherwise operated by the College, for the manual sale of food and snacks on College property. Pre-packaged snacks and candy rights are non-exclusive and shared with the College Bookstore, the College Vending Service or any other third party contractor of the college’s. The college reserves the right to enter into contract for beverages pouring right agreement through different contract solicitation process. Pouring rights refers to the exclusive right to supply Beverages for resale at the colleges and associated merchandising activities. “Beverages” are defined as carbonated and non-carbonated natural or artificially flavored non-alcoholic sodas, fruit juices, cold teas, bottled water, sports drinks and cold packaged coffee drinks.
6. The College reserves the right, through its Academic Food Service/Culinary Arts program to provide a daily laboratory-based luncheon service in any College facility but not utilizing the regular Cafeteria service.
7. It is understood that the College’s Academic Food Service/Culinary Arts program will have proprietary first rights of refusal for any two (2) catered events held on-campus by either/or any agency of the College or by either/or any approved off-campus group or any combination of the above which will not exceed the maximum of the two (2) events per Academic Year. Any increase in the number of events catered by the College’s Academic Food Service/Culinary Arts program will require written approval by the Concessionaire. Subject to reasonable advance notice and daily operational considerations, any food service equipment on-site at the College shall be made available by the Concessionaire for use as an educational aid by the College’s Academic Food Service Program/Culinary Arts.
8. The College reserves the right to conduct regular inspections and examinations of all Food Service Areas for the purpose of checking equipment and verifying compliance with all of the appropriate sanitation and health codes. Such inspection will not relieve the Concessionaire of the legal responsibility in regard to other terms of this agreement or of the direct responsibility to observe codes without recourse to the College and so as to hold the College harmless. The College reserves the right to apply standard, acceptable measures and criteria in performing such inspections and to demand immediate corrective action on the part of the Concessionaire. Failing such action, the College reserves the right to arrange for corrective and/or proper maintenance of equipment and corrective and proper cleaning to meet sanitation and health codes through the use of its own employees or by employment of outside services and to pass on the direct and indirect costs for such work to the Concessionaire.

9. The terms, offers, inducements and other statements made by and included in the Concessionaire's accepted response---including, but not limited to, those dealing with staffing levels, staff hours, hours of operation, marketing promotions, themes and contests, electronic POS (Point-Of-Sales)---will be incorporated as part of the contract as they are superseded, amplified or amended by a specific portion of this document.
10. FORCE MAJEURE: If by reason of strike or other labor disputes, civil disorders, inclement weather, acts of God, or other unavoidable cause, either party is unable to entirely perform its obligations, such nonperformance shall not be considered a breach of contract.
11. SURVIVAL: the terms, conditions, representations, and warranties contained in the contract shall survive the termination or expiration of the contract.
12. The COLLEGE shall have the right to install any additional equipment and make any alterations to the facilities, in a manner compatible with the existing facilities.
13. Assignment & Successor ship by Concessionaire: the Concessionaire shall not assign in whole or in part or otherwise transfer any interest in this Agreement without the prior written consent of the College. In the event of a business failure due to bankruptcy, insolvency, or a declaration occurs, illness and other elements that causes the Concessionaire not to fulfill its food service obligations, then the college reserves the right to select and assign the balance of the existing food service contract timeframe to another food service provider to perform the food service function to the College.

#### Article V: Termination

1. In the event that the College wishes, for reason of just cause, to terminate the agreement prior to June 30 2017, such termination intent will be sent by certified mail no less than sixty (60) calendar days prior to the intended termination date to an officer of the Concessionaire stating the reason for such intention to terminate. The Concessionaire will have fifteen (15) calendar days in which to remedy the cause, or the agreement will terminate in sixty (60) calendar days from the receipt of said mailed notice. Judgment of satisfactory remediation shall be solely that of the College, but such judgment shall be exercised reasonably and not in an arbitrary or capricious manner.
2. The Concessionaire may withdraw from this agreement only by giving written notice by certified mail to an officer of the College no less than ninety (90) days prior to the intended withdrawal date, which shall fall during a period of a break between semesters or sessions.
3. Prior to the start of the academic year, the College and the Concessionaire will meet to examine sales and marketing techniques for the prior year. Decreases

in sales attributed to reduction in enrollments and/or staffing which could not be offset by increased marketing will be considered when reviewing the rate of commission.

**During the Fall & Spring semesters:**

The **Cafeteria** is open:

- Monday – Thursday 8:00am - 2:30pm
- Friday 8:00am – 2:00pm

The **Food Service Cart** is open:

- Monday – Thursday 6:30am – 9:00pm
- Friday 7:00am - 2:00pm
- Saturday 8:00am – 3:00pm
- Sunday 9:00am – 2:00pm

**During the Summer season, the Cafeteria is closed.**

The Food Service Cart/Café area in the B-Bldg. Main lobby is open:

- Monday – Thursday 7:00am – 9:00pm
- Friday 7:00am – 2:00pm

\*\*Operational hours are subject to change by the Concessionaire only per the approval of the College; such changes will consider student enrollment trends, verified sales volume, sound business judgment, etc.

Article VI

The Concessionaire herewith certifies under the penalties of perjury that it is a corporation registered under the appropriate provisions of the General Laws of the Commonwealth of Massachusetts, and herewith sets forth the names and addresses of all persons having financial interest in this agreement in accordance with the appropriate provisions of the Massachusetts General Laws and other amending or appropriate statutes in force as of the date of this agreement:

There being no others.

The Concessionaire agrees immediately to notify the College of any change in any term of the above paragraph.

Article VII

1. The College and the Concessionaire warrant that this agreement represents fairly and completely the total agreement between them and further agree that no change to a provision herein, nor any additional provision, shall be in effect unless both parties shall execute a written agreement signed by persons authorized to act for both parties. It is further agreed that if any portion of this agreement is declared or found to be illegal, unenforceable or void, both parties shall be relieved of all obligation under that portion but the remaining portions shall be fully enforced; also that forbearance or indulgence in any respect of any portion of this agreement in any single instance shall not be considered a waiver of any term nor of that term in any respect or instance.
  
2. This agreement and its subsequent duly executed amendments or modifications shall be governed by the laws of the Commonwealth of Massachusetts and any legal actions/proceedings filed relative to this agreement shall be brought in a court of competent jurisdiction within the Commonwealth.
  
3. The Governor of the Commonwealth of Massachusetts or his/her designee, the Secretary of Administration and Finance or his/her designee, the State Auditor or his/her designee, and the President of the College or his/her designee shall have the right at reasonable times and upon reasonable notice to examine and copy, at reasonable expense, the books, records and other compilations of data of the Concessionaire which pertain to the performance of the provisions and requirements of this agreement.

In witness of the above, the Concessionaire has caused these presents to be signed, in duplicate, in its name and behalf and its corporate seal to be hereto affixed by \_\_\_\_\_ a corporate officer duly authorized to sign such instruments for the Concessionaire on the year and date written; and the College has executed these presents, in duplicate, by its President on the year and day written.

For Bunker Hill Community College:

\_\_\_\_\_  
 John K Pitcher, Vice President, Finance and Admin

\_\_\_\_\_  
 Date

For the Concessionaire:      UNIDINE Food Management



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President

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Date

CERTIFICATE OF CLERK OF CORPORATION

I do hereby certify, under the pains of perjury, that I am the duly elected Clerk of UNIDINE FOOD Management Inc., a corporation, and as Clerk have charge and custody of the corporate seal, books and records of said corporation; and that the following is a true and complete copy or paraphrase with the same meaning and intent of the resolution adopted by the Directors of said corporation at a meeting duly called and held as indicated below; that said resolution does not contravene the articles of organization or the By-Laws of the corporation and appears in full on the books of the corporation, has not been altered, amended or repealed, and remains in full force and effect at the date hereof.

RESOLVED, that \_\_\_\_\_ of this corporation be and here is hereby authorized to negotiate, execute and deliver, on behalf of the corporation, agreements and contracts.

Date of Meeting: \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Clerk Signature

\_\_\_\_\_  
Typed Clerk Name

(affix seal)

## **Bunker Hill Community College Food Services Advisory Committee**

### **Purpose:**

Meet with the Food Services owner and site manager on a quarterly basis to advise, recommend and address concerns regarding quality and selection of food offerings. Further, the committee will serve as an advocate for students, faculty and staff to ensure that at all times, healthy and nutritional options are available. In addition, the committee will recommend ways for the food services provider to help the College meet its sustainability goals.

### **Committee Membership:**

- Director of Purchasing
- Director of Facilities Management
- Director of Conference Planning and Special Events
- Hospitality Department Chairperson
- Associate Vice President of Student Services or designee
- Four students appointed by SGA President

### **Chairperson:**

Director of Purchasing will serve as Chairperson

**For Food Service Vendor Use  
BHCC Equipment List  
Kitchen**

- 1 ea. Walk-in cooler 18'X 8'
- 1 ea. Walk-in freezer 18 X 8' (inside walk-in cooler)
- 2 ea. 80 qt steam kettles
- 1 ea. Convection steamer - 2 door unit
- 2 ea. Ranges - ring top
- 2 ea. Gas ovens - under ring top
- 1 ea. Baker's Pride Gas Oven 3-door (Pizza)
- 1 ea. 2-Tiereed Infrared broiler
- 1 ea. Holding Warmer Box—2 Door
- 3 ea. Portable Heated Cabinets (C-175)
- 2 ea. Fryolators
- 1 ea. Hobart floor mixers
- 1 ea. 2 bay pot sink
- 1 ea. 2 bay vegetable prep sink with disposal
- 7 ea. 5' x 6' work tables - stainless steel
- 6 ea. 6' portable racks
- 2 ea. Hand sinks
- 1 ea. 20' x 14' storeroom w/ shelving
- 1 ea. Hobart Meat Slicer
- 1 ea. Pot rack
- 1 ea. Manitowo Ice making machine
- 1 ea. Hobart Meat Chopper
- 1 ea. Storage Cabinet (Blue)
- 1 ea. Dishwasher
- 1 ea. Clothing Washer/Dryer combination
- 2 ea. Portable charcoal Grille (1/2 barrels located @ Facility's Plumbing Room)

- 1 ea Fire Flyer Safe (Manager's Office)
- 1 ea Pizza warmer
- 1 ea Hatco Warmer
- 3 ea Coffee Makers
- 2 ea Cashier Counter Booth
- 1 ea 2-Door Freezer Chest
- 1 ea CPU, Monitor, Keyboard

**SERVING LINES: Grill & Deli**

- 1 ea 6 bay steam table
- 1 ea 2' x 4' cold top with sneeze guard
- 1 ea Double van Brewmatic (Cooler #2—storage)
- 1 ea 2 sided prep box
- 1 ea 1 bay sink
- 1 ea. Grill
- 1 ea. 5' prep table
- 2 ea small storage rooms (cooler) (2-door & 3-door)
- 1 ea. Toaster - 4 slice
- 1 ea 2 sided reach in refrigerator
- 3 ea Hand Sink
- 1 ea 5' x 3' salad bar unit
- 1 ea 6'x 15'beverage Island
- 1 ea 2 sided brewmatic