



ARMY & AIR FORCE EXCHANGE SERVICE
SOLICITATION/PROPOSAL/AWARD
(MERCHANDISE, SUPPLIES, EQUIPMENT, AND/OR SERVICES)

| | | |
|---|---|---|
| ISSUING OFFICE Army & Air Force Exchange Service (Exchange) Attn: PL-K-F (Amanda Polk) 3911 S. Walton Walker Blvd. Dallas, TX 75236 | CONTRACTING OFFICER Curtis Mcgilbra | |
| | TELEPHONE NO. 214-312-2728 | CONTRACT CONTROL NO. (If Applicable) |
| | ITEMS/SERVICE Non-NBFF Snack Bar @ Aberdeen, MD (Bldg. 6010) | |

SOLICITATION FOR PROPOSALS

| | |
|---------------------------|---|
| DATE ISSUED 5 May 2016 | SOLICITATION NUMBER PL-K-F-14-001-16-066 |
|---------------------------|---|

Proposals are solicited for merchandise, supplies, equipment or services described in this solicitation. Written proposals must be received at the issuing office by 2:00 o'clock p m, local time 02 Jun 2016

PROPOSAL (To Be Completed By Offeror)

The offeror agrees, if awarded all or part of the items and/or services solicited, to furnish them according to the price(s)/fee(s), terms and conditions contained in the solicitation and proposal. This proposal will be valid for _____ calendar days (60 calendar days unless a different period is entered by offeror) after the date for receipt of proposals established above.

OFFEROR REPRESENTS (Check appropriate boxes)

- That it is is not a manufacturer or producer of, is is not a regular dealer in; the items provided or (Commodity contracts only).
- That it is is not engaged in furnishing of services of the type called for herein (Service contracts only).
- That it operates as an Individual Partnership Corporation, incorporated in the States or Country of Maryland.
- That it is is not a small business.
- That it is is not a minority business enterprise. (See definition of page 2)*
- That it is is not a woman-owned business. (See definition of page 2)*
- That an owner or officer of the firm or the firm or a related firm has has not been convicted of a felony related to a business transaction.
- That an owner or officer of the firm or the firm or a related firm has has not been suspended or debarred.
- That the information provided is full, accurate and complete. For breach of this warranty. The Exchange may terminate for default any contract resulting from this solicitation and all other Exchange contracts.

*Check a block for all contracts to be performed in the United States, its possessions and Puerto Rico.

| | | |
|--|--|--|
| FULL NAME AND BUSINESS ADDRESS OF OFFEROR (STREET, CITY, STATE & ZIP CODE OR COUNTRY) <u>McShanes Inc</u> <u>2217 E Churchville Rd Suite A</u> <u>Bel Air, MD 21015</u> | TELEPHONE NUMBER/FAX NUMBER/EMAIL ADDRESS <u>410-734-0622</u> <u>mcshanesgourmet@yahoo.com</u> | |
| | SIGNATURE OF PERSON AUTHORIZED TO SIGN PROPOSAL <u>Marcia McShane</u> | DATE <u>5/21/16</u> |
| TIN: <u>20-5389470</u> | DUNS: | TYPED OR PRINTED NAME AND TITLE <u>Marcia McShane President</u> |

ACCEPTANCE AND AWARD (To Be Completed By the Exchange)

CONTRACT AWARDED FOR FOLLOWING:
Aberdeen Proving Grounds

This contract is awarded subject to Amendment One to Solicitation dated 27 May 2016 which is attached hereto and made apart of the contract. This contract is also awarded subject to Contractor's Best and Final Offer dated 16 June 2016, which is attached hereto and made apart of the contract.

EXCHANGE FEE - 12.0% FEE DEPOSIT: \$1,698.00
CONTRACT PERIOD - 5 years

| | | |
|----------------------------|---|--------------------------------------|
| CONTRACT NO. APG 16-066 | AMOUNT: <input checked="" type="checkbox"/> ESTIMATED \$1,698,000.00 <input type="checkbox"/> ACTUAL | DATE OF AWARD <u>22 June 2016</u> |
|----------------------------|---|--------------------------------------|

| | | | |
|-------------------------------------|---|---------------------------------|-------------------------------------|
| SIGNATURE <u>Curtis Mcgilbra</u> | ARMY & AIR FORCE EXCHANGE SERVICE OFFICE OF THE GENERAL COUNSEL - FOIA | (TYPED NAME) CURTIS MCGILBRA | DISCLOSED SEPT 2016 Page 1 of 50 |
|-------------------------------------|---|---------------------------------|-------------------------------------|

INSTRUCTIONS TO OFFERORS AND
CONDITIONS OF PROPOSAL/AWARDS
(Merchandise, Supplies, Equipment and/or Services)

BEST COPY AVAILABLE
FA-17-0188

1. CONTENTS OF SOLICITATION/CONTRACT:

This solicitation and any resulting contract consists of EXCHANGE FORM 4450-2, Solicitation/Proposal/Award Merchandise, Supplies, Equipment and/or Services), pages 1 thru 4, and the following listed Schedule and Exhibits.

| | | |
|---|------------|------------|
| <input checked="" type="checkbox"/> Schedule, Solicitation No. PL-K-F-14-001-16-066 | ,page(s) 1 | through 1 |
| <input checked="" type="checkbox"/> Exhibit A, General Provisions Concessions (APR 16) | ,page(s) 1 | through 10 |
| <input checked="" type="checkbox"/> Exhibit B, Concession Labor Provisions, Contract for Services (with SCA) SEP 15 | ,page(s) 1 | through 7 |
| <input checked="" type="checkbox"/> Exhibit C, Special Provisions (Non-NBFF) Concession Contracts (NOV 15) | ,page(s) 1 | through 17 |
| <input checked="" type="checkbox"/> Exhibit D, Prices, Menu and Specifications | ,page(s) 1 | through 1 |
| <input checked="" type="checkbox"/> Exhibit E, Fee Schedule | ,page(s) 1 | through 1 |
| <input checked="" type="checkbox"/> Exhibit F, Insurance Requirements | ,page(s) 1 | through 1 |
| <input checked="" type="checkbox"/> Exhibit G, Location and Demographics | ,page(s) 1 | through 1 |
| <input checked="" type="checkbox"/> Exhibit H, Product and Performance Specifications | ,page(s) 1 | through 3 |
| <input checked="" type="checkbox"/> Exhibit I, U.S. DOL Wage Determination (2014-0368) | ,page(s) 1 | through 2 |
| <input type="checkbox"/> Exhibit | ,page(s) | through |
| <input type="checkbox"/> Exhibit | ,page(s) | through |
| <input type="checkbox"/> Exhibit | ,page(s) | through |
| <input type="checkbox"/> Exhibit | ,page(s) | through |

2. SUBMISSION OF PROPOSALS:

a. Offerors have been provided one complete copy of the solicitation as identified above, and two proposal packages. Each proposal package consists of EXCHANGE FORM 4450-2, Solicitation/Proposal/Award pages 1 thru 4, and the schedule or exhibits listed below. Also, for service contracts, a Financial and Technical Capability Data Sheet and a Projected Operation Statement are included if checked below.

Financial and Technical Capability Data sheet, if checked. Operating Statement, if checked.

Resume, Bank and/or Financial Statement; W-9

Exhibit E ,page(s) 1 through 1

Exhibit ,page(s) through

Exhibit ,page(s) through

b. To make a proposal, complete, sign and return two proposal packages.

3. DEFINITIONS:

a. The term "minority business" means a business concern (1) which is at least 51 percent owned by minority group members; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority group members, and (2) whose management and daily business operations are controlled by one or more such minority group members. For purposes of this definition, minority group members include Black Americans, Hispanic Americans, Asian-Pacific Americans, Asian-Indian Americans, and Native Americans (such as American Indians, Eskimos, Aleuts and Native Hawaiians).

b. The term "women-owned business" means that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

4. PROPOSAL PREPARATION:

- a. You are encouraged to contact the contracting officer if you have a question concerning this solicitation. Information about the solicitation furnished any prospective offeror will be furnished all prospective offerors.
- b. Furnish all information required by the solicitation on the forms provided. Failure to do so may result in the proposal being considered non-responsive and excluded from consideration for award.
- c. Erasures or changes must be initialed by the person signing the proposal.
- d. The person signing the proposal must have authority to obligate the firm contractually.
- e. Unless otherwise authorized by the solicitation, any alteration to the terms and conditions contained in the solicitation may render offeror's proposal non-responsive.

5. SUBMISSION - Proposals and modifications, if any, must be sent in a sealed envelope addressed to the issuing office with the offer's name (for identification only) and the solicitation number on the front. Telegraphic proposals will NOT be considered unless authorized in the solicitation; however, proposals may be modified by telegraphic notice provided it is received before the time and date set for receipt of proposals.

6. LATE PROPOSALS - The Exchange reserves the right to consider proposals or modifications received late, but before award is made, should such action be to the Exchange advantage.

7. WITHDRAWAL - Proposals may be withdrawn by written notice or telegram received at any time prior to award.

8. NO PROPOSAL - If you don't submit a proposal, DO NOT return the solicitation or proposal packages unless instructed to elsewhere in the solicitation. However, please send us a letter or postcard telling us if you're interested in receiving future solicitations for this type of items or services.

9. ELIGIBILITY OF PROPOSED CONTRACTOR (S):

a. Proposals for merchandise, supplies or equipment will not be considered for award unless submitted by manufacturers or producers of, prime sources, or regular dealers, in the items required.

b. Proposals for services will not be considered unless submitted by persons or firms who, currently or within the preceding six (6) years, have successfully owned, operated, or managed in a full time capacity, for over twelve consecutive months, a business identical or having similar technical and operational characteristics as the service solicited. The phrase operated or managed means the offeror has/had a direct involvement in the day-to-day operation of the business to include responsibility for employment, supervision, scheduling production/services, payroll, and purchasing. The monthly sales volume of the offeror's business must equal or exceed the estimated monthly sales of the proposed concession activity. The Exchange reserves the right to waive all or part of the qualification requirements in the event it is determined to be in the Exchange's best interests.

c. Proposals will not be considered if submitted by brokers, active duty military personnel or U.S. Government employees. This prohibition includes immediate family members of these personnel residing in the same household, unless approved before award of contract.

d. The offeror must have adequate resources to perform the resulting contract and, upon request, furnish proof of same to the contracting officer. The contracting officer may request a financial statement, a cost breakdown, a projected operating statement, or other data from any offeror. Failure to furnish the data requested within the time specified may cause a firm to be determined non-responsible. The Exchange further reserves the right to determine the responsibility of the offerors based on factors including but not limited to the offeror's financial resources, business capacity, performance record, integrity, management/business acumen, technical ability and facilities/equipment.

10. DISCOUNTS (Not applicable to procurements of edible meat, meat food products, dairy products, edible fats or oils, or concession services.) - Prompt payment discounts will be included in the evaluation of proposals provided the period of the offered discount is 20 days or more. Even if not evaluated for award, all discount terms offered will become a part of any resulting contract.

11. ACCEPTANCE AND AWARD

a. The Exchange reserves the right to reject any or all proposals, to waive or correct informalities and minor irregularities in proposals received, and to conduct further negotiations with any or all offerors.

b. Unless otherwise stated in the solicitation (and in the absence of any express limitation made by the offeror), the Exchange may accept all or any part of any proposal, without further negotiations. Proposals should therefore contain the offeror's most favorable terms. Any further negotiations undertaken will not constitute a rejection or counteroffer on the part of the Exchange.

c. When quantities for merchandise, supplies or equipment stated in the solicitation are estimated, the Exchange reserves the right to make an award on any item for the quantity less than the quantity proposed at the unit price offered unless the offeror's proposal specifies otherwise.

d. The Exchange plans to award a contract to the responsive, responsible offeror whose proposal is best for the Exchange, price/fee and other factors set out in the solicitation considered. The Exchange reserves the right to accept other than the lowest price/highest fee proposal, and to make multiple awards unless otherwise provided in the Schedule.

e. Contracting Officer will award the contract by completing the "ACCEPTANCE AND AWARD" block on page 1, signing the contract, obtaining any approvals required by the Exchange directives, and mailing or otherwise furnishing the successful offeror a copy of the completed contract within the time allowed for acceptance of the offeror.

12. INCONSISTENCIES - In the event of an inconsistency between the provisions of this solicitation, the inconsistency will be resolved by giving precedence in the following order: (a) the Schedule; (b) Instructions to Offerors and Conditions of Proposals/Awards; (c) General Provisions; (d) Other provisions of the contract whether incorporated by reference or otherwise; (e) the Specifications; and (f) the Drawings.

13. CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION - Offeror certifies that this proposal or any change thereto is made without consultation, communication, or agreement, for the purpose of restricting competition or manipulating awards, and this proposal has not been disclosed and will not be disclosed prior to award.

14. PROPRIETARY INFORMATION - The Exchange will not be bound by any language in any offer purporting to limit the Exchange's right to use or disclose any offer or any part of an offer because of proprietary information in it, unless the contracting officer specifically agrees in writing to such limitations.

15. TAXPAYER IDENTIFYING NUMBER (TIN) - The 9-digit TIN is an identifier required of all individuals and businesses that file tax returns in the United States. For individuals eligible for a social security number (SSN), the SSN assigned by the Social Security Administration serves as the TIN. For resident or non-resident aliens ineligible for a SSN, the individual taxpayer identification number (ITIN) assigned by the IRS serves as the TIN. The Employer Identification Number (EIN) assigned by the IRS serves as the TIN for businesses and entities other than individuals. Failure to provide the TIN may result in a proposal being found non-responsive and not further considered for award.

| ARMY AND AIR FORCE EXCHANGE SERVICE | | AMENDMENT OF SOLICITATION/CONTRACT (AGREEMENT) | | PAGE OF | |
|---|--|--|---|---|---------------------|
| | | | | 1 | 1 |
| 1. AMENDMENT OF: <input checked="" type="checkbox"/> SOLICITATION <input type="checkbox"/> CONTRACT (AGREEMENT) | | | | | |
| SOLICITATION/CONTRACT NUMBER PL-K-F-14-001-16-066 | | AMENDMENT NUMBER One (1) | | CONTRACT CONTROL NO. (If Applicable) | |
| 2. IF A SOLICITATION AMENDMENT Refer to Section I "Instructions to Offerors" on reverse of this form and the following as indicated: <input checked="" type="checkbox"/> a. The time and date specified for receipt of proposals is: <input checked="" type="checkbox"/> Not extended <input type="checkbox"/> Extended until (local time at place of receipt of proposals) Hour _____ Date _____ M, _____ <input checked="" type="checkbox"/> b. The above solicitation is modified as set forth in Block 4 below. | | | 3. IF A CONTRACT AMENDMENT Refer to Section II "Instructions to Contractors" on reverse of this form and the following as indicated: <input type="checkbox"/> a. The expiration date of the above CONTRACT is changed: FROM _____ TO _____ <input type="checkbox"/> b. The above CONTRACT is: <input type="checkbox"/> Not further modified. <input type="checkbox"/> Modified as set forth in Block 4 below. | | |
| 4. DESCRIPTION OF AMENDMENT. ***** PLEASE ACKNOWLEDGE THE AMENDMENT BY SIGNING, DATING, AND RETURNING BY EMAIL (PolkAm@aafes.com) OR FAX (214) 465-2360 NO LATER THAN 02 JUNE 2016 AT 2:00 PM (CST). FAILURE TO ACKNOWLEDGE AMENDMENT MAY RESULT IN YOUR PROPOSAL BEING NON-RESPONSIVE. ***** Question #1: Are there any sources on APG that we should consider for recruiting staff? Answer #1: In accordance with Exhibit A, General Provisions (APR 16), paragraph 15(a), "the contractor is the sole employer of its employees. Personnel employed by Contract under this contract are not employees of the Exchange. The Exchange affirmatively disclaims control over the terms and working conditions of the Contractor's employees, including but not limited to the ability to hire, fire, discipline, train, set work hours, determine compensation and benefits, and exercising day-to-day supervision." Question #2: Will there be a punch list for a few things to be fixed before operations begin? Since site has been vacant, there are certain to be some minor issues that will need to be addressed in order to pass inspection. Or is it going to be as is? Answer #2: In accordance with Exhibit C, Special Provisions (Non-NBFF Food Concession Contracts)(NOV 15), paragraph 2 (a), "concessionaire investment for buildings and installed property or fixtures will not be required, unless otherwise specified in the contract." *****LAST ITEM***** | | | | | |
| IN ALL OTHER RESPECTS, THE TERMS AND CONDITIONS OF THE SOLICITATION/CONTRACT, AS AMENDED, REMAIN IN FULL FORCE AND EFFECT. | | | | | |
| SIGNATURES | | | | | |
| 5. NAME AND ADDRESS OF OFFEROR/CONTRACTOR (Street, City, County, State, and Zip Code) | | | 6. ISSUED BY Army & Air Force Exchange Service (Exchange) 3911 S. Walton Walker Blvd (PL-K-F) Dallas, TX 75236 USA | | |
| SIGNATURE OF PERSON AUTHORIZED TO SIGN <i>Marcia McShane</i> | | DATE 5/31/16 | SIGNATURE OF CONTRACTING OFFICER <i>Curtis McElbra</i> | | DATE 27 May 2016 |
| TYPED OR PRINTED NAME AND TITLE Marcia McShane President | | TYPED OR PRINTED NAME OF CONTRACTING OFFICER Curtis McElbra | | | |
| EXCHANGE FORM 4400-18 (REV MAR 11) (All Prev Editions Usable) | | | | | |

SECTION I

Instructions to Offerors – Amendment of Solicitation. The following instructions apply unless specified otherwise in an Exchange letter accompanying this amendment.

- a. Offerors must acknowledge receipt of this amendment prior to the hour and date specified for receipt of proposals in the original solicitation, or the hour and date specified in this amendment if such has been amended. Offeror must acknowledge by one of the following means:



EXCHANGE

ARMY & AIR FORCE EXCHANGE SERVICE
3911 S. Walton Walker Blvd. Dallas,
TX 75236

PL-K-F

16 June 2016

Dear Offeror:

Reference is made to Solicitation No. PL-K-F-14-001-16-066 for providing a concession Non-Name Brand Fast Food snack bar service at building 6010; Aberdeen Proving Grounds, MD.

You are invited to submit a Best and Final Offer that will adjust Exhibit E, FEE SCHEDULE, as attached. Based on the requirements, as originally solicited, please submit your offer by Monday, 20 June 2016, 2:00 PM Central Standard Time.

You are encouraged to reconsider estimated sales, operating expenses, and initial investments made in evaluating your final fee offer.

If you do not respond to this request for Best and Final Offer, your original proposal will stand for consideration.

Please enter your Best and Final Offer below and send it to me (via e-mail) PolkAm@aafes.com.

Sincerely,

AMANDA D. POLK

Contracting Officer

BEST AND FINAL OFFER

(FEE PERCENTAGE)

12 %

Marcia McShane President
6/19/16

Offeror Name and Title (Printed)

Date

SCHEDULE

1. **General:** Proposals are solicited to establish a contract for concession operation of a Snack Bar at Aberdeen Proving Grounds; Aberdeen, MD.
2. **Contract Period:** The contract will be for a 5 year period with performance starting on 01 August 2016 and ending on 31 July 2021, unless terminated or extended. No representation that this contract will be extended beyond its original period is binding on the Exchange unless in writing signed by the contractor and contracting officer. In no event will the contract be extended beyond an accumulated period of five (5) years from the date established for commencement of service.
3. **Sales Data:** This is a new service; therefore, no data is available to establish actual sales. It is estimated that gross sales will average approximately **\$28,300** per month. The Exchange makes no warranty, express or implied, that the estimated sales will be realized.
4. **Award:** The contract will be awarded to the responsive, responsible offeror, presenting the highest fee to the Exchange.
5. **Prices:** The prices to be charged, services to be performed and items to be sold are fixed in Exhibit D, Price Schedule.
6. **Fee:** Offerors must enter fee proposals in Exhibit E, Fee Schedule.
7. **Facility:** The location(s) and POSTED operating hours for the concession are listed below:

Hours of Operation

| | | | |
|------------|-------------|--------|--------|
| Location: | Mon. – Fri. | Sat. | Sun. |
| Bldg. 6010 | 0700-1600 | Closed | Closed |

8. **Alterations:** Alterations are made to Exhibit C, Special Provisions (Non-NBFF Food Concession Contracts) as follows:
 - a. Paragraph 30, Military Card Sales, is deleted.

EXHIBIT A
GENERAL PROVISIONS CONCESSIONS
(APR 16)

1. Legal Status (APR 12)
2. Authority to Bind (NOV 95)
3. Procurement Integrity (APR 12)
4. Oral Representations (JAN 94)
5. Modifications and Additions (MAY 04)
6. Subcontracting (APR 16)
7. Assignment - Services (APR 12)
8. Termination (NOV 15)
9. Permits, Licenses and Applicable Laws (NOV 15)
10. Indemnify and Hold Harmless (FEB 16)
11. Disputes (APR 12)
12. Nonwaiver of Defaults (SEP 91)
13. Advertisements (AUG 08)
14. Examination of Records (NOV 15)
15. Contractor Personnel and Representatives (NOV 15)
16. Environmental Protection (AUG 09)
17. Contractor Liability - Services (MAY 04)
18. Drug-free Workplace (AUG 92)
19. Restrictions on Purchases of Foreign Goods (MAY 04)
20. Payment by Electronic Funds Transfer (OCT 98)
21. Choice of Law and Forum (OCT 11)
22. Privacy Act (NOV 15)
23. Payment Card Industry (PCI) Compliance (OCT 10)
24. Green Clause (AUG 08)
25. Performance (FEB 16)
26. Combating Trafficking in Persons (AUG 09)
27. Personal Identity Verification of Contractor Personnel (MAY 11)
28. Army and Air Force Exchange Service Rights (Unlimited) (APR 12)
29. Notice of Debarment/Suspension Status (MAY 13)

SOLICITATION NO. 14-001-16-066

GENERAL PROVISIONS CONCESSIONS

1. LEGAL STATUS (APR 12).

The Army and Air Force Exchange Service (hereinafter and as known in commerce, the "Exchange"), including its activities, offices, and individual exchanges, is an integral part of the Departments of the Army and Air Force and an instrumentality of the United States Government. Exchange contracts are United States contracts; however, they do not obligate appropriated funds of the United States. Exchange procurement policy is established by applicable directives and instructions promulgated by the Department of Defense. The Federal Acquisition Regulation (FAR) does not apply to the Exchange.

2. AUTHORITY TO BIND (NOV 95).

a. "Contracting Officer" means a person authorized by the Director/CEO, Army and Air Force Exchange Service to execute and administer contracts, purchase orders, or other agreements on behalf of the Exchange. Only contracting officers may waive or change contract terms; impose additional contract requirements; issue cure, show-cause and termination notices; issue claims against contractors, and issue final decisions on contractor claims.

b. The contracting officer may authorize other Exchange and government officials to perform actions of an administrative nature, such as conducting inspections and audits; placing orders against existing contracts; forwarding requests for contract changes to the contracting officer; collecting contract payments, and processing routine documents. These officials are not contracting officers, as defined in a. above.

c. The Exchange has no obligation to recognize or accept waivers or changes to this contract that result from the actions of officials other than the contracting officer. The contracting officer may deny claims based on such actions. Contractors should refer questions concerning the authority of other Exchange or government officials to the contracting officer.

3. PROCUREMENT INTEGRITY (APR 12).

a. By submission of an offer or performance of this contract, the offeror or contractor certifies with respect to this Exchange purchase action:

(1) that no discussion, offer or promise of future employment or business opportunity has been or will be made to the Exchange civilian or military personnel who participated personally and substantially in the purchase action;

(2) that no offer, promise or gift of any gratuity, entertainment, money, or other thing of value has been or will be made to any Exchange civilian or military personnel or any other employee of the United States Government or member of their family or household;

(3) no proprietary information of other offerors or other purchasing information (offeror list, prices offered, technical evaluations or rankings, etc.) is sought or obtained until it is available to the public under the Exchange procedures.

(4) that no person or selling agency has been employed or retained to secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except bona fide employees or bona fide established commercial selling agencies retained by the contractor for the purpose of securing business.

b. Contractor certifies that no gratuities (entertainment, gifts, money, kickbacks or other things of value) were or will be solicited or accepted by the contractor, or any person representing the contractor, from any subcontractor or person representing the subcontractor, for the purpose of obtaining or rewarding favorable treatment in connection with this contract or any subcontract under it.

c. Contractor will report in writing to the Director, Loss Prevention Directorate, any possible violation of this clause when the contractor has reasonable grounds to believe a violation may have occurred. The contractor shall cooperate fully with any federal agency investigation of a possible violation of this clause.

d. For breach of any of these certifications, the Exchange may terminate this contract for default and/or deduct from amounts due under this or other contracts, or charge contractor for, the total value of any contingent fee, gratuity or kickback or other loss to the Exchange arising out of the breach.

SOLICITATION NO. 14-001-16-066

4. ORAL REPRESENTATIONS (JAN 94).

This contract represents the entire agreement of the parties. Any changes or amendments thereto may not be recognized by the Exchange unless committed to writing and incorporated by reference into the contract by the contracting officer.

5. MODIFICATIONS AND ADDITIONS (MAY 04).

a. Except as otherwise specifically provided in this contract, all changes, modifications, additions or deletions to this contract must be prepared in writing as formal amendments signed by both parties and approved in accordance with provisions of applicable regulations.

b. Unilateral Amendments: The contracting officer may make unilateral amendments to the contract to incorporate administrative changes, provided such changes are within the general scope of the contract.

6. SUBCONTRACTING (APR 16).

In the performance of this contract, Contractor shall not subcontract any part of the work without the prior written consent of the contracting officer. Any subcontractor used in connection with this contract is the agent of the contractor and not the agent of the Exchange.

7. ASSIGNMENT - SERVICES (APR 12).

The Assignment of Claims Acts, 31 U.S.C. 3727 and 41 U.S.C. 6305, are not applicable to amounts due under the Exchange contracts. Contractor may not assign its rights or delegate its obligations under this contract, and the Exchange will neither consent to, nor recognize, any purported assignment. Contractor may request permission from the contracting officer to have contract payments forwarded to a third party. Contractor may request that the contract be novated.

8. TERMINATION (NOV 15).

Relative to termination of this contract, it is mutually agreed:

a. This contract may be terminated in whole or in part by either party immediately upon written notice to the other party in the event of breach of this contract by the other party.

b. This contract may be terminated in whole or in part by either party upon a minimum of ninety (90) days' notice for barber, beauty, beauty with nails, Paul Mitchell, and vending contracts in writing to the other party. All other concession contracts may be terminated in whole or in part by either party upon a minimum of thirty (30) days' notice, in writing to the other party.

c. This contract is automatically terminated upon the dispatch of written notice to contractor in the event the exchange is inactivated or the installation at which the exchange is located is inactivated. If this contract covers services to be performed at various exchanges or installations and only one or more of the exchanges or installations is inactivated, then only that portion of the contract being performed at the inactivated exchange or installation is terminated.

9. PERMITS, LICENSES AND APPLICABLE LAWS (NOV 15).

Contractor warrants that all necessary permits and licenses have been obtained and that the merchandise, services, supplies, and/or equipment provided under this contract are in compliance with applicable laws. Contractor agrees to comply with all federal and state security and breach laws, privacy laws and regulations that cover the collection and use of personal information or data.

10. INDEMNIFY AND HOLD HARMLESS (FEB 16).

a. Contractor will indemnify, hold harmless and defend the Exchange and all other agencies and Instrumentalities of the United States, their agents, representatives, employees and customers from any and all suits, judgments and claims, including those established by or pursuant to court decisions, to international agreements, or duly promulgated regulations of the United States Government, and all charges and expenses incident thereto which arise out of any of the following:

(1) The alleged or established violation or infringement of any patent, copyright or trademark rights asserted by any third party with regard to items or services provided by contractor;

SOLICITATION NO. 14-001-16-066

(2) Any loss, damage, or injury alleged or established to have arisen out of or in connection with items or services provided by contractor, unless such loss, damage, or injury was caused by or resulted solely from the acts or omissions of the Exchange, its agents, representatives, or employees;

(3) Any loss, damage, or injury alleged or established to have arisen out of or in connection with any other acts or omissions of the contractor.

b. The Exchange will give contractor notice and an opportunity to defend.

c. Notwithstanding anything else contrary herein, if contractor experiences a loss of individual customer personal information or data covered by any federal or state law, contractor shall indemnify and hold harmless the Exchange from and against any and all liability, loss, claim, injury, damage, penalty, fine, settlement or expense, including, without limitation, costs of remediation efforts and reasonable attorneys' fees and costs arising from or relating to any action, claim or allegation of or with respect to that loss of customer personal information or data.

11. DISPUTES (APR 12).

a. All disputes arising under or relating to this contract shall be resolved under this clause.

b. "Claim" as used in this clause means a written demand or written assertion by one of the contracting parties seeking the payment of money in a sum certain or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this paragraph.

c. A claim by the contractor shall be made in writing and submitted to the contracting officer for a written decision. A claim by the Exchange against the contractor shall be made by a written decision by the contracting officer.

d. For contractor claims exceeding \$100,000, the contractor shall submit with the claim a signed certification that:

(1) The claim is made in good faith;

(2) Supporting data are accurate and complete to the best of the contractor's knowledge and belief; and

(3) The amount requested accurately reflects the contract adjustment for which the contractor believes the Exchange is liable.

e. The claim must be executed by an individual with authority to bind the contractor.

f. The contracting officer will mail or otherwise furnish a written decision in response to a contractor claim within 60 days. If more time is necessary to investigate and process the claim, the Exchange will notify the contractor. For contractor claims that do not exceed \$100,000, no answer by the contracting officer within the designated timeframe is a denial of the claim. Such decision by the contracting officer shall be final and conclusive unless within 30 calendar days from the date of contractor's receipt of the final decision, the contractor appeals the decision to the Armed Services Board of Contract Appeals (ASBCA).

g. Pending final resolution on any request for relief, claim, appeal, or action arising under or relating to this contract, contractor will proceed diligently with the performance of this contract and will comply with the contracting officer's decision.

h. Submission of false claims to the Exchange is a violation of federal law and may result in civil and/or criminal penalties. If the contractor cannot support all or part of its claim as a result of fraud or misrepresentation of fact, then in addition to other remedies or penalties provided for by law, the contractor will pay the Exchange an amount equal to the unsupported part of the claim and all Exchange costs attributable to reviewing that part of the claim.

12. NONWAIVER OF DEFAULTS (SEP 91).

Any failure by the Exchange at any time to enforce or require strict performance of any terms or conditions shall not constitute waiver thereof, and shall not affect or impair such terms or conditions in any way or the Exchange's right at any time to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions.

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13. ADVERTISEMENTS (AUG 08).

Contractor will not represent in any manner, expressly or by implication, that products purchased under this contract are approved or endorsed by any element of the United States, including the Exchange. All contractor advertisements that refer to the Exchange or military exchanges will contain a statement that the advertisement was neither paid for nor sponsored, in whole, or in part, by the Exchange, the military exchange system, or the United States Government.

14. EXAMINATION OF RECORDS (NOV 15).

The contractor agrees that the contracting officer or his duly authorized representative will have the right to examine and audit the books and records of the contractor directly pertaining to the contract during the period of the contract and until the expiration of three years after the final payment under the contract. The contractor agrees to include this clause in all subcontracts that exceed \$10,000.

15. CONTRACTOR PERSONNEL AND REPRESENTATIVES (NOV 15).

a. This agreement does not create an employment or joint employer relationship between an employee of the Contractor and the Exchange. Contractor is the sole employer of its employees. Personnel employed by Contractor under this contract are not employees of the Exchange. The Exchange affirmatively disclaims control over the terms and working conditions of the Contractor's employees, including but not limited to the ability to hire, fire, discipline, train, set work hours, determine compensation and benefits, and exercising day-to-day supervision.

b. Contractor is responsible for compliance with labor and employment laws, and will accept liability for breach of applicable labor and employment laws and terms of this contract. In the event of a breach by Contractor related to this provision, Contractor agrees to indemnify the Exchange.

c. Contractor will discontinue using any individual in Exchange facilities upon contracting officer's written notice that the individual is not acceptable for performance under this contract. Contractor will not use any such person to perform other Exchange contracts or work in other Exchange facilities without the prior written consent of the contracting officer. These requirements are not requests by the Exchange for the termination of the individual's employment with Contractor, but a requirement only under the Contract not to use any such individual under this contract, other Exchange contracts or work in Exchange facilities without prior written consent.

d. Contractor personnel will abide by applicable laws, regulations and military command directives and conduct themselves so as not to reflect discredit on the Exchange.

e. Contractor will not represent himself/herself to be an agent or representative of the Exchange, another instrumentality, or an agency of the United States.

16. ENVIRONMENTAL PROTECTION (AUG 09).

a. This clause shall apply to any contract in excess of \$100,000, and indefinite quantity contracts estimated to exceed \$100,000 in one year; however, it shall not apply to use of facilities located outside the United States.

b. Unless this contract is exempt, by acceptance of this contract, contractor (and, where appropriate, subcontractor) stipulates:

(1) that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the EPA List of Violating Facilities as of the date of contract award;

(2) its agreement to comply with all requirements of Section 114 of the Air Act and Section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in sections 114 and 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder;

(3) that as a condition of award of contract, contractor shall promptly notify the contracting officer of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, or delegatee, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities;

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(4) its agreement to include the criteria and requirements in subparagraphs (1) through (4) in every nonexempt subcontract, and to take such actions the Government may direct as a means of enforcing such provisions.

17. CONTRACTOR LIABILITY - SERVICES (MAY 04).

a. Except as set out specifically elsewhere in the contract, contractor will be liable for costs to the Exchange and/or other agencies of the United States associated with termination for default as follows:

(1) Incidental damages, including expenses reasonably incurred in connection with repurchase of the service and any other reasonable expense incident to the breach.

(2) Consequential damages including, but not limited to, lost fees resulting from lapses in service, unscheduled facility closures, sales declines, lower fees received on repurchase, and injury to person or property proximately resulting from any breach of warranty.

b. Contractor will not be liable for incidental or consequential damages if the failure to perform arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. In such case contractor must provide prompt written notice to the contracting officer; the contracting officer, at his option may accept late, partial or substituted performance, or may terminate the contract in whole or in part effective immediately upon receipt of written notice by contractor.

18. DRUG-FREE WORKPLACE (AUG 92).

Contractor agrees to make a good faith effort to establish and maintain a drug-free workplace in connection with the performance of this contract. Consistent with the size and organization of its work force, contractor may wish to consider taking the following or other appropriate actions in establishing a drug-free workplace: publicizing a drug-free workplace policy, initiating an employee drug awareness program or encouraging participation in existing community/installation programs and informing employees of the general availability of drug counseling programs.

19. RESTRICTIONS ON PURCHASES OF FOREIGN GOODS (MAY 04).

a. Contractor will not acquire for use in the performance of this contract any merchandise, equipment, supplies or services originating from, processed in, or transported from or through, the countries prohibited from commerce by the United States Government. This restriction includes merchandise, equipment, supplies or services from any other country that is restricted by law, regulation or executive order at any time during performance of the contract. A current list of prohibited countries is available at <http://www.ustreas.gov/offices/enforcement/ofac/>.

b. Contractor agrees to insert the provisions of this clause, including this paragraph, in its subcontracts.

20. PAYMENT BY ELECTRONIC FUNDS TRANSFER (OCT 98).

The following will apply for all payments made by the Exchange to the Contractor under the terms of this contract.

a. Method of payment:

(1) All payments by the Exchange under this contract shall be made by electronic funds transfer (EFT). The term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) If the Exchange is unable to release payment by EFT, the Contractor agrees to either
(i) accept payment by check or some other mutually agreeable method of payment, or
(ii) request the Exchange to extend the payment due date until such time as the Exchange can make payment by EFT.

b. The Exchange shall make payment to the Contractor using the EFT information provided by the Contractor to the Exchange. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the Exchange not less than thirty days prior to the effective date.

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c. If the Contractor's EFT information in the Exchange database is incorrect the Exchange need not make payment to the Contractor under this contract until correct EFT information is entered into the Exchange database; and any invoice shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract.

d. If the Contractor has identified multiple payment receiving points in the Exchange database, and the Contractor has not notified the Exchange of the payment receiving point applicable to this contract, the Exchange shall make payment to the first payment receiving point listed in the Exchange database.

e. The payment or disbursing office shall forward to the Contractor available payment information. The Exchange shall send the payment information to the remittance address contained in the Exchange database.

21. CHOICE OF LAW AND FORUM (OCT 11).

This contract shall be construed and interpreted in accordance with the Federal laws of the United States of America.

22. PRIVACY ACT (NOV 15).

a. The contractor agrees to –

i. Comply with the Privacy Act of 1974 (the Act) and Department of Defense rules and regulations issued pursuant to the Act in the design, development, or operation of any system of records on individuals that accomplish an agency function.

ii. Include this clause in all subcontracts which require the design, development, or operation of a system of records.

b. In the event of violations of the Act, a civil action may be brought against the concession activity when the violation concerned the design, development, or operation of a system of records on individuals that accomplish an Exchange function. Criminal penalties also apply to the concession activity if it is accomplishing an Exchange function. For the purposes of applying the criminal penalties section of the Act, the contractor is considered to be an employee of the Exchange.

c. "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

d. "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

e. "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

f. The system of records under this contract is the system of records that is the result of information collected, compiled, and/or utilized to build a customer database. Instrument used to collect information in written or electronic formats include, but are not limited to, application for services, verification of credit rating, customer inquiries or comments, data for invoicing current customers, change of address notification, information used for marketing purposes, etc.

g. Subcontracting and outsourcing customer data outside the Continental United States is not allowed.

h. The Contractor will ensure that all personnel, to include the contractor, prior to handling Personally Identifiable Information (PII), receive Privacy Act training. Contractor may be asked to provide verification. Contractor shall not retain, use, memorize or otherwise collect information on the customer for use other than authorized by the Exchange. The Department of Defense provides Privacy Act training and a certificate free of charge at <http://iatraining.disa.mil/eta/piiv2/launchPage.htm>.

23. PAYMENT CARD INDUSTRY (PCI) COMPLIANCE (OCT 10).

a. If payment cardholder data is processed via a contractor's processor or via an Exchange point of sale terminal or if card data is shared with contractors, subcontractors, merchants or service providers under the terms and conditions of this contract, the contractors, subcontractors, merchants and service providers must

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adhere to the most current version of the Payment Card Industry Data Security Standards (PCI DSS) requirements. These requirements are available at <https://www.pcisecuritystandards.org>.

b. The contractor acknowledges that each contractor, subcontractor, merchant and service provider with access to payment cardholder data is responsible for the security of the cardholder data the provider possesses. The contractor will also include this clause in any subcontract that provides access to cardholder data.

c. The contractor will control any duplicate or store copies of payment card receipts in a locked cabinet or in a locked register or locked drawer. The contractor will use equipment that masks the card number on the customer's receipt per the PCI DSS. The contractor will develop and implement procedures for destruction of receipts based on PCI standards and applicable state law.

24. GREEN CLAUSE (AUG 08).

The Exchange encourages contractors/vendors to embrace, establish and promote environmentally "Green Initiatives". We look to the contractor to accomplish this by :

- a. Where possible utilize environmentally friendly products
- b. Where possible promote energy-efficiency and water conservation
- c. Where possible eliminate/reduce the production or generation of hazardous waste and the need for special material processing (including special handling, storage, treatment and disposal)

25. PERFORMANCE (FEB 16).

Contractor will perform in accordance with all contract provisions. Additional periods of performance (if any) will only be granted for performance at or above the contractual level. The contracting officer may exercise remedies in accordance with the provisions of this contract for poor performance, non-performance, or failure to meet the service level agreement established. If the contractor elects to terminate this contract, then the Exchange may or may not choose to solicit them for any similar follow on requirement.

26. COMBATING TRAFFICKING IN PERSONS (AUG 09).

- a. *Definitions.* As used in this clause—

"Coercion" means—

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.
- (4) Withholding any documents (e.g. passports, visas, IDs, etc.) that prevents or restricts the person to move freely. "Commercial sex act" means any sex act on account of which anything of value is given to or received by any person. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

"Employee" means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

"Forced labor" means knowingly providing or obtaining the labor or services of a person—

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

"Involuntary servitude" includes a condition of servitude induced by means of—

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

Severe forms of trafficking in persons" means—

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(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. "Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

b. Policy. The United States Government and the Army and Air Force Exchange Service has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract; or

(3) Use forced labor in the performance of the contract.

c. Contractor requirements. The Contractor shall—

(1) Notify its employees of—

(i) The United States Government's and the Army and Air Force Exchange Services' zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

d. Notification. The Contractor shall inform the Contracting Officer immediately of—

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

e. Remedies. In addition to other remedies available to the Army and Air Force Exchange Service, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in—

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract or fee payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Army and Air Force Exchange Service determined Contractor non-compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

f. Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

g. Mitigating Factor. The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

27. PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (MAY 11).

This clause is to provide guidance concerning compliance with Homeland Security Presidential Directive (HSPD) 12 and Policy for Common Identification Standard for Contractors and Subcontractors when contract performance requires routine physical access to a Federally controlled facility and/or routine access to a Federally controlled information system. As processes and procedures could change over time, go to <http://www.shopmyexchange.com>, click on, "Doing Business", click on "Authorization to Enter Military

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Installations” for the most up-to-date instructions. Questions should be directed to the Exchange HQ Chief of Staff, Force Protection (CS-FP) or your Contracting Officer.

a. After contract award and prior to performance on any Federal installation, the contractor shall comply with the local installation’s personal identity verification procedures identified by that installation which implements HSPD-12 policy for a Common Identification Standard for Federal Employees and Contractors.

(1) If the contractor employee is to work at only one site, the Exchange’s contractors must follow local installation guidelines and directives concerning identification, access, and security requirements. These guidelines may vary from one installation to another and it is the contractor’s responsibility to seek guidance concerning these issues from the Exchange Service Business Manager or General Manager.

(2) If the contractor or their employees will access sensitive data or go to multiple DoD or access to multiple non-DoD facilities on a recurring basis for a period of 6 months or more (CONUS or OCONUS), they must obtain a Common Access Card (CAC) and will be required to submit a clearance package to CS-FP, no less than 30 days in advance of needed access. Authorization must be received from CS-FP before contractors can be issued a CAC card. CAC card will be issued after a thorough background check which includes the completion of a FBI fingerprint check with favorable results and submission of a National Agency Check with inquiries to the Office of Personnel Management (OPM) or a DoD determined equivalent investigation, you will then be directed to the nearest military installation where the card can be obtained.

b. The contractor shall insert this clause in all subcontracts when the subcontractor is required to have routine physical access to a Federally controlled facility and/or routine access to a Federally-controlled information system.

c. The contractor is responsible for securing and returning to the issuing office all identification cards issued under these procedures

(1) for all employees at the end of the contract; and

(2) for individual employees no longer employed or no longer assigned to perform the Exchange contract.

d. As a reminder, any costs associated with the clearance process are the responsibility of the contractor.

28. ARMY AND AIR FORCE EXCHANGE SERVICE RIGHTS (UNLIMITED) (APR 12).

Contractor shall have no rights to use Exchange furnished data or information supplied to Contractor by the Exchange for other than this Exchange contract; it will be deemed Exchange Confidential Information and shall remain the Exchange sole property. All reports, analysis, and recommendations provided by Contractor pursuant to this contract will be and remain the sole property of the Exchange and the United States Government and may not be used on any other work by Contractor without Contracting Officer approval (e.g. including consideration or additional costs to the Exchange) and with respect thereto, the contractor agrees not to assert any proprietary or confidential rights and not to establish any claim for intellectual property.

The contractor agrees that duly authorized representatives of the Exchange will have access at all reasonable times to inspect and review all notes or other data pertaining to the work to be performed under this contract.

29. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS (MAY 13).

The Contractor shall provide immediate notice to the Contracting Officer in the event of being suspended, debarred or declared ineligible by any other Federal Department or agency, or upon receipt of a notice of proposed debarment from another Federal Department or agency during the performance of this contract.

EXHIBIT B
CONCESSION LABOR PROVISIONS
Contract for Services (with SCA) – SEP 15

1. EQUAL EMPLOYMENT OPPORTUNITY.

The Contractor will be required to comply with applicable EEO Laws.

2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

(Applicable to contracts for services performed in the United States, any U.S. territory, or the District of Columbia.) The following clause is applicable to concession, agency, and vending machine contracts where the total gross receipts from sales or services under the contract will exceed \$2,500 and to management and direct service contracts where total payments to the contractor will exceed \$2,500. This contract to the extent that it is of the character to which the Contract Work Hours and Safety Standards Act, 40 USC 327, applies, is subject to all applicable provisions of the Act and the regulations of the Secretary of Labor thereunder (29 CFR 5).

a. Overtime Requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek to work in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives such compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 40 hours in such workweek.

b. Violation; liability for unpaid wages; liquidated damages: In the event of any violations of provisions of paragraph a., the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be completed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph a. in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of his standard workweek of 40 hours without payment of the overtime wages required by paragraph a.

c. Withholding for unpaid wages and liquidated damages: The contracting officer may withhold from the contractor from any monies payable on account of work performed by the contractor or subcontractor such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph b.

d. Subcontracts: The contractor shall insert paragraphs a. through d. of this clause in all subcontracts and shall require their inclusion in all subcontracts of any tier.

e. Records: The contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

3. CONVICT LABOR (MAY 1989).

In connection with the performance of work under this contract, the contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 USC 4082(c)(2)) and Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987.

4. SERVICE CONTRACT ACT.

(Applicable to Contracts of \$2,500 or more.) Except to the extent that an exemption, variation or tolerance would apply if this were a contract in excess of \$2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Regulations and interpretations of the Service Contract Act of 1965, as amended, are contained in 29 CFR Part 4

5. SERVICE CONTRACT ACT OF 1965 AS AMENDED.

a. This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR Part4).

b.

(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)

(a) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraphs of this section have been approved by the Office of Management and Budget under OMB control number 1215-0150.)

(b) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(c) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination

(d)

((1)) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

((2)) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph b(2)(b) of this section need not be followed.

((3)) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(e) The wage rate and fringe benefits finally determined pursuant to paragraphs b(2)(a) and (b) of this section shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(f) Upon discovery of failure to comply with paragraphs b(2)(a) through (e) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(a) Service Contract act Price Adjustment. This applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements.

((1)) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

((2)) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with—

((a)) An increased or decreased wage determination applied to this contract by operation of law; or

((b)) An amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

((c)) Any such adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph ((1)) of this clause, and to the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance; it shall not otherwise include any amount for general and administrative costs, overhead, or profit.

((d)) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Exchange from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract) claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be

modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

((e)) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

c. The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR Part 4, and not otherwise.

d.

(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wage and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wages rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of Section 4.1b(b) of 29 CFR Part 4 apply or unless the Secretary of Labor or his authorized representative finds, after a hearing as provided in Section 4.10 of 29 CFR Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in Section 4.11 of 29 CFR Part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as a date of the final administrative decision.

e. The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

f. The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

g.

(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs g.(1)(a) through (f) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 7.g.(1)(a) through (d) approved by the Office of Management and Budget under OMB control number 1215-0017 and sections 7.g.(1)(e) and (f) approved under OMB control number 1215-0150):

(a) Name and address and social security number of each employee.

(b) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(c) The number of daily and weekly hours so worked by each employee.

(d) Any deductions, rebates, or refunds from the total daily and weekly compensation of each employee.

(e) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph b of this section. A copy of the report required by the clause in paragraph b.(2)(b) of this section shall be deemed to be such a list.

(f) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to Section 4.6(1)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

h. The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

i. The contracting officer shall withhold or cause to be withheld from the Exchange prime contractor under this or any other Government contract with the contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Exchange may enter into other contracts or agreements for completion of the work, charging the contractor in default with any additional cost.

j. The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Exchange prime contractor."

k.

(1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The classes of service employees expected to be employed under this contract with the Exchange are identified on an attachment to these Labor Provisions. Such employees would be subject, if employed by the Exchange, to the pay scales established by the Exchange and would be paid not less than the wage rates and fringe benefits shown on the attachment.

l.

(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Exchange prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Exchange prime contractor shall report such fact to the contracting officer, together with full information as to the applicable and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacations or other benefit provisions based upon length of service with a contractor (predecessor) or successor (Section 4.173 of Regulations, 29 CFR Part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

m. Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR Part 4.

n.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

o. Notwithstanding any of the clauses in paragraphs b. through m. of this section relating to the Service Contract Act of 1965, the

following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

p. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

q. An employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: Provided, however, that the amount of such credit may not exceed \$2.13 per hour. To utilize this provision:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit (approved by the Office of Management and Budget under OMB control number 1215-0017);

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

r. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

6. Establishing a Minimum Wage for Contractors (DEC 14)

a. *Executive Order 13658*. This contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

b. *Minimum Wages*.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the **Federal Register** no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semimonthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

c. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

d. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

e. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

f. Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

g. Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(i) Name, address, and social security number.

(ii) The worker's occupation(s) or classification(s)

(iii) The rate or rates of wages paid.

(iv) The number of daily and weekly hours worked by each worker.

(v) Any deductions made; and

(vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

h. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

i. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

j. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and (4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

k. Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

l. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

m. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

EXHIBIT C
SPECIAL PROVISIONS
Non-NBFF Food Concession Contracts
(November 2015)

1. Activity (MAR 90)
2. Facilities/Maintenance/Operating Hours (APR 05)
3. Equipment, Furniture, and Movable Trade Fixtures (NOV 15)
4. Tools and Supplies (DEC 88)
5. Prohibited Activities (FEB 89)
6. Scope of Service/Minimum Quality (DEC 88)
7. License for the Exchange Trademarks (JAN 05)
8. Prices (MAY 99)
9. Authorized Customers (NOV 15)
10. Customer Complaints and Claims (DEC 88)
11. Signs, Identity and Décor Standards (JAN 05)
12. Utilities (APR 05)
13. Internal Controls (NOV 15)
14. Concessionaire Settlement Report (NOV 15)
15. Fee Deposit and Payment (MAY 99)
16. Taxes (NOV 15)
17. Concessionaire and Concessionaire Employees (Concession Personnel) (JAN 00)
18. Actions to be Taken Upon Termination (Including Expiration) (JAN 05)
19. Uncalled-for Customer Property (DEC 88)
20. Lost, Abandoned, and Unclaimed Property (DEC 88)
21. Inventory Transfer (FEB 89)
22. Indebtedness (FEB 89)
23. Price/Fee Revisions (FEB 89)
24. Insurance (FEB 89)
25. Promotional Events (JUL 10)
26. Exchange Tabloid/Special Sales Coupons and Merchandise Gift Certificate Redemption (NOV 15)
27. Refunds (DEC 88)
28. Customer Checks (MAY 05)
29. Safeguarding of Concessionaire Funds on Army and Air Force Installations (DEC 88)
30. Charge Card/Military Star Card Sales (NOV 15)
31. Inspections (MAR 00)
32. Smoking Policy (DEC 86)
33. Heavy Metal Leaching (DEC 07)
34. Exchange/Vendor Partnership Marketing Program (JUL 94)
35. Organizational Sales (NOV 00)

SPECIAL PROVISIONS

Concession Contracts

1. ACTIVITY (MAR 90).

a. The Exchange grants concessionaire a nonexclusive concession to operate the activity described in the Schedule. The assignment of space for concession is a revocable license, not a tenancy.

b. The Exchange makes no warranty or representation, express or implied, that merchandise or services sold in the concession are free of competition. During the contract period, other activities may sell the same or similar merchandise or services. Such activities are: the Exchange, other Exchange concessionaires, military affiliated activities, firms selling without authorization or others. Any concessionaire complaint of competition from these activities must be written and must be provided to the military installation commander and the contracting officer. The Exchange may assist concessionaire in resolving its complaint. The Exchange will not be liable for any income, sales, profit or other losses of concessionaires attributed to competition.

c. If premises furnished by or through the Exchange are destroyed either in whole or in substantial part, so as to significantly hinder or prevent normal operations by concessionaire, by acts of God (such as, but not limited to, fire, flood, hurricane, unusually severe weather conditions) or unusual occurrence (unless solely and directly caused by the Exchange negligence), the Exchange will not be responsible to concessionaire for repair/restoration of the premises, lost income, sales, or lost profits, damage to concessionaire property, employee salaries, or any consequential costs incurred, or be obligated to relocate concessionaire. Concessionaire should consider obtaining business insurance to cover risks to its property and concession activity.

d. During the contract period, the contracting officer may require the concession to relocate to better meet the Exchange needs or those of the installation, as determined by the contracting officer. Concessionaire will be given advance notice. The Exchange will pay for moving and installing Exchange furnished equipment and fixtures and hooking up utility lines. The Exchange will reimburse the reasonable cost of moving and installing concessionaire furnished equipment and fixtures. The Exchange will not be liable for lost income, profit and/or salaries associated with relocating.

2. FACILITIES/MAINTENANCE/OPERATING HOURS (APR 05).

a. Concessionaire investment for buildings and installed property or fixtures will not be required, unless otherwise specified in this contract. The Exchange will maintain Exchange furnished premises including ordinary running repairs and interior decorating. Concessionaire will be liable for damage to the premises resulting from acts or omissions of concessionaire, concessionaire's employees, or agents. The Exchange may inspect the premises at any time.

b. Concessionaire will keep the premises clean, orderly, secure, and sanitary. Concessionaire will comply with the installation/exchange fire, safety and security regulations and applicable health and sanitation and environmental protection regulations.

c. Concessionaire will do custodial maintenance on the exterior of the facility and grounds if a building is assigned for concessionaire's use. If the facility is shared with other concessionaires, exterior custodial maintenance will be assigned by exchange management. If the concession is located in an exchange complex and predominant tenancy is by the Exchange direct-operated activities, the Exchange will perform exterior custodial maintenance, except those tasks described in "d" below. The equipment and labor to perform exterior custodial maintenance assigned to the concessionaire will be at concessionaire's expense. Assigned exterior maintenance may include:

(1) Pick up all refuse daily within the assigned exterior areas.

(2) During the season, cut and trim the grass weekly within the assigned exterior areas.

(3) During the season, clear the snow, ice, slush and mud deposits from the sidewalks and walkways within the assigned exterior areas.

d. Concessionaire will, as needed, but at least daily, clean the entrance door, exterior of storefront windows, entranceway and customer walkways; empty and thoroughly clean all waste and smoking receptacles; and check exterior lighting. Exterior lighting failures will be promptly reported to the Exchange. In automotive activities, the service bay floors, equipment, and work benches will be cleaned daily.

e. Posted operating hours are those that will be displayed at the facility. However, each facility will be open for business at least 5 minutes before posted opening, and will remain open at least 5 minutes past posted closing, as in the following example:

POSTED Hours of Operation 1000 - 1800

ACTUAL Hours of Operation 0955 - 1805

The term open for business means ready to serve the customer. Activities such as preparing cash registers and sales forms will be accomplished prior to actual opening. Facilities will be open for business at all times during scheduled operating hours. Hours of operation will generally conform to those of nearby exchange activities, and may be changed by written mutual agreement between the concessionaire and the general manager. If concessionaire and general manager cannot agree on changes to the hours of operation, the issue will be submitted to the contracting officer for resolution. Hours of operation for facilities not located near exchange activities are fixed and may only be changed by written amendment to the contract. If the nearby exchange is open on a holiday, the concession must also be open during the same hours. If the nearby exchange is closed on a holiday, the concession may also choose to remain closed.

3. EQUIPMENT, FURNITURE, AND MOVABLE TRADE FIXTURES (NOV 15).

a. The Exchange Furnished: When there is Exchange Furnished Equipment, the following will apply. The item list, agreed value, and condition of equipment, furniture and trade fixtures furnished by the Exchange are stated in this contract. Concessionaire will sign a custody receipt for the items furnished. Repairs of and replacement parts for the Exchange furnished equipment, furniture, and fixtures will be provided by the Exchange, or at the Exchange's option, by concessionaire at the Exchange's cost.

(i) Concessionaire will perform routine preventive maintenance and keep the equipment, furniture, and fixtures clean, sanitary, and secure. Broken or malfunctioning equipment must be reported, in writing, to the Exchange General Manager or Services Business Manager immediately upon discovery. The Exchange will not be liable for concessionaire losses caused by malfunction of equipment. Exchange property will not be removed from the premises without the prior written approval of the contracting officer. Exchange property will only be used for this contract. The Exchange may inspect the Exchange furnished equipment, furniture, and fixtures at any time.

(ii) Concession Point-Of-Sale (CPOS) Tablet:

(1) Periodic Commodity Concessions: Concessionaire will sign out/in the CPOS tablet and accessories daily at the Exchange-designated location.

(2) Full-time Concessions: Concessionaire will sign for a CPOS tablet that will remain in the facility for the length of the contract.

(3) Concessionaire will be responsible for the Exchange-furnished CPOS tablet and accessories while in possession. Concessionaire will be liable for any damage to or loss of the items resulting from acts or omissions of concessionaire, his employees, or agents. Concessionaire will reimburse the Exchange for any repair or replacement of the CPOS tablet and/or accessories as stated in this contract.

b. Concessionaire Furnished: Concessionaire will provide and install all the equipment, furniture and movable trade fixtures required by this contract. All concessionaire furnished property is subject to approval of the contracting officer. All electrical equipment will carry the Underwriters' Laboratories (UL) Seal of Approval. At the request of the contracting officer, and prior to the commencement date of services under this contract, concessionaire will give the contracting officer a typed list of all equipment, furniture and movable trade fixtures to be used for this contract. Each item will be identified by manufacturer, model name/number, serial number or concessionaire's fixed asset number, as appropriate. Concessionaire will not sell or remove any equipment, furniture, or fixtures from the concession premises without the prior written approval of the contracting officer. Concessionaire will maintain and repair or replace, as necessary, all concessionaire furnished equipment, furniture and fixtures. Title to concessionaire furnished equipment, furniture, and fixtures remains with the concessionaire. If Concessionaire uses leased equipment in the performance of the contract, concessionaire must notify the contracting officer of the name and address of the lessor. Concessionaire investment in equipment, inventory, furniture and fixtures for this contract is a business risk of the concessionaire. It is expressly understood and agreed that neither the Exchange nor any other agency or instrumentality of the United States is or will be liable to concessionaire for costs of concessionaire's investing in equipment, inventory, furniture or movable trade fixtures in the event of termination or expiration of this contract without extension.

4. TOOLS AND SUPPLIES (DEC 88).

Concessionaire will furnish tools of the trade and supplies required for this contract.

5. PROHIBITED ACTIVITIES (FEB 89).

a. Concessionaire will not, in or about the premises of the military installation, engage in or permit gambling or the use

of any device which savors gambling (such as punch cards or slot machines), engage in loan operations, or sell merchandise or services on credit unless otherwise provided for in the contract. Contractor is responsible for all deferred charges. Concessionaire will take no actions counter to the purpose of the contract or which have the effect of diverting sales from the concession activity to concessionaire's commercial business activities. Facilities will not be used for performance or support of other Exchange contracts or commercial business activities.

b. Concessionaire will not provide free merchandise or services except in conjunction with promotional programs approved by the contracting officer.

6. SCOPE OF SERVICE/MINIMUM QUALITY (DEC 88).

Concessionaire will only sell merchandise and services specifically set out in the Price Schedule exhibit of this contract. Items sold under this contract will be in good taste. Merchandise and services provided under this contract will be equal to those provided by first quality commercial establishments.

7. LICENSE FOR EXCHANGE TRADEMARKS (JAN 05).

a. Should the concessionaire be granted permission to use an Exchange trademark, concessionaire agrees that it becomes a temporary licensee of such mark and warrants that it shall use the licensed mark only for the purposes of and pursuant to this Agreement. Concessionaire agrees that it has no claim, option, or other right whatsoever, direct or implied, to any like license for any geographic area or location other than the licensed location(s) in this Agreement.

b. Upon cancellation, termination or expiration of this Agreement, concessionaire shall immediately discontinue all use of the licensed mark and will be deemed to have automatically and irrevocably assigned any rights, equities, good will, titles or other rights in the mark which concessionaire may have obtained or had vested in pursuance of any endeavors under this Agreement. Any such assignment shall be without other consideration than the mutual covenants of this Agreement.

8. PRICES (MAY 99).

a. Articles stocked for sale will be individually price marked.

b. Concessionaire will only charge the prices established in the Price Schedule exhibit of this contract.

c. Where a state law imposes a sales tax on the sale of the item and/or service, the sales tax will be stated separately from the sales price, added to the price in the Price Schedule exhibit, and collected from the customer.

9. AUTHORIZED CUSTOMERS (NOV 15).

Concessionaire will sell service or merchandise only to personnel authorized to use Exchange facilities. Concessionaire will comply with Exchange patron identification procedures.

10. CUSTOMER COMPLAINTS AND CLAIMS (DEC 88).

Concessionaire will adhere to the Exchange's policy of customer satisfaction guaranteed. All customer complaints and claims will be resolved at concessionaire's expense. Any disagreement that cannot be resolved between concessionaire and the customer will be decided by the contracting officer, whose decision will be final and not subject to the Disputes clause. If concessionaire fails to process complaints and claims timely, the Exchange may, in addition to other rights and remedies available under this contract, settle customer complaints and claims and charge them to concessionaire's account. Customer complaints or claims based on merchandise or services sold by a predecessor concessionaire will be referred to the contracting officer.

11. SIGNS, IDENTITY AND DÉCOR STANDARDS (JAN 05).

Concessionaire will post only those signs and décor items approved by the contracting officer.

a. The concessionaire will post all signs and décor items furnished by the Exchange, including, but not limited to, those that provide customer information and those that set identity and décor standards.

b. In the event the concessionaire owns and operates an existing business under a commercially recognized brand, they may request approval from the Exchange to use the recognized brand image, signing and store décor.

(1) All requests for approval of concessionaire furnished commercially recognized brand image, signing and store décor must be made in writing to the contracting officer and include sufficient detail to fully identify the proposed brand or image.

(2) Concessionaire will not take any action to implement or install the brand image until they receive written approval from the contracting officer.

(3) The decision of the contracting officer to accept or reject the concessionaire's proposed brand image is final and not subject to the disputes clause.

12. UTILITIES (APR 05).

a. The Exchange will pay for all utilities, to include heat, power, water, sewage service, and trash removal unless otherwise provided in the contract. The Exchange will not be liable for losses caused by interruptions of utility service.

b. Concessionaire will pay for connecting and disconnecting utilities to concessionaire furnished equipment.

c. Concessionaire will pay all costs for telephone service used in performance of this contract. The concessionaire will publish the phone number in all listings by identifying the type of business or the Exchange Corporate Identity, as applicable, followed by the installation name (i.e., Barber Shop, Hill AFB, or Stripes the Alterations Place, Hill AFB).

d. Concessionaire and concessionaire employees will comply with the Exchange energy conservation programs.

Concessionaire furnished equipment requiring utilities hookup will comply with the Exchange energy conservation policy. Concessionaire furnished equipment determined by the contracting officer to be energy inefficient will be replaced with acceptable equipment at concessionaire's expense.

13. INTERNAL CONTROLS (NOV 15).

Concessionaire will keep a complete and accurate accounting of all transactions including, but not limited to, facility sales, route sales, organization sales, etc.

a. Cash Registers. The concessionaire will provide and maintain cash registers, either Electronic Cash Registers (ECR) or an Electronic POS System as required in the exhibit titled Concessionaire Furnished Equipment and as described below. Cash register procedures follow:

(1) Concessionaire will obtain the written approval of the Exchange Representative on Exchange Form 6550-27, Contractor's Cash Register Record, before a cash register is placed into or removed from service. The approval will document the information listed on Exchange Form 6550-27 and be signed by the exchange representative and the concessionaire. The concessionaire will immediately notify the Exchange Representative if a cash register becomes inoperative. Sales will be recorded on Exchange Form 6550-9, Customer Daily Sales Register, until the inoperative register is repaired or replaced. An Exchange Form 6550-27 must be completed when the inoperative register is removed from service and again before it is returned to service or replaced.

(2) All sales (cash, charge card or deposit) will be recorded on the cash register when the transaction is made. Service and merchandise sales will be recorded separately on the designated keys of the cash register. The customer will be given a cash register receipt for the sale.

(3) Refunds, overrings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) will be documented using the Concessionaire Cash Register Adjustment Voucher, Exchange Form 6550-24. If the contract requires a cash register with a sales form validation feature, the concessionaire will validate the adjustment vouchers. Attach one copy of completed vouchers, signed by the customer or repairman and concessionaire or concessionaire's designee, to the Z reading receipt tape submitted with the Concessionaire's Settlement Report, Exchange Form 6550-10. All other deductions from sales must be supported as required by the contracting officer.

(4) The concessionaire will X read cash registers daily at close of business. At the monthly cut-off, concessionaire will Z read the register and remove the register tape. Write the activity/branch number on the tape, Z read, then X read the register again to put the opening readings on the next month's tape. Submit Z reading receipt tapes for each settlement period with the Concessionaire Settlement Report, Exchange Form 6550-10, to the supporting exchange accounting office. Cash register journal tapes will be retained by the concessionaire for six (6) months.

(5) Only cash, checks, and other cash instruments received from sales, and established change and petty cash funds will be placed in cash registers. All cash register disbursements such as customer refunds or petty cash purchases must be supported by an appropriate refund or petty cash voucher. Overrings must be reported on the Exchange form 6650-10, Concessionaire Settlement Report in accordance paragraph 14.a., below.

b. Electronic Cash Register (ECR) - The ECR will be a general purpose unit for use in a small business environment. General Specifications:

(1) Key functions: The following key functions are required:

(a) Department Keys: A sufficient number of department keys to accommodate the number of services and/or different fee percentages is required by this contract.

(b) Numeric Keys: Includes 0-9 keys that are used in entering quantity, price and other values as required. Decimal point will be automatic where required.

(c) No Sale Key: Other than the emergency release feature, the no sale key must be the only key that opens the cash drawer when the machine is outside of a transaction. No other keys may be used in conjunction with the no sale key. The no sales feature must produce a transactional counter printout on the X and Z readout tapes.

(d) Refund Key: Used to refund a completed transaction. Must have separate resettable totalizer which will not subtract nor add to the non-resettable grand totalizer.

(e) Tax Key: A tax key programmable for various tax rates in accordance with the particular state law. Taxes must totalize on the X and Z readout tape. The register should provide for manual entry of tax amounts different than the programmed amount.

(f) Item Correct/Void Key: Used to void item operations within a transaction. Must have a separate resettable totalizer which will not subtract nor add to the non-resettable grand totalizer.

(g) Validation Key: A validation key and slip printer capability. Validation print will be on an item basis, not a transaction basis, printing only a single line of data on a single or multiple copy form.

(h) Exchange Coupons: Use for coupon redemption. Coupons must totalize on the X and Z readout tape.

(i) Cash: Used to document tender type. Cash must totalize on the X and Z readout tape.

(j) Checks: Used to document tender type. Checks must totalize on the X and Z readout tape.

(k) Charge: Used to document tender type. Charges must totalize on the X and Z readout tape.

(l) Exchange Gift Cards (Optional): Used to document gift card redemption and is an option key, however, total amount of gift cards redeemed must be reported on the Exchange Form 6650-10, Concessionaire Settlement Report in accordance with paragraph 14.a., below.

(m) Other Keys: Other keys may be used as determined by the concessionaire. Registers with received-on-account, paid out, or other features that subtract from the department total and non-resettable grand totalizer must have those features blocked for non-use. Charge: Used to document tender type.

(2) Physical: The ECR may be unified or modular in design with overall uniform dimensions not to exceed 21" deep x 20" wide x 18" high. The cabinet will be made of durable molded plastic type material or other heavy duty construction that is stain resistant and easy to clean with general purpose household cleaners. All hinges, locks, latches, mounting brackets and other cabinet hardware will be constructed of metal or other equally durable material that is rust resistant and designed for heavy daily use. The register will be designed to insure that miscellaneous items such as paper clips, metal staples, coins and etc. cannot accidentally enter or fall into the register.

(3) Cash Drawer: The cash drawer will be of heavy duty construction designed for constant daily use. It will have an emergency release mechanism preferably located under the drawer. The ECR must have a closed drawer feature to prevent register operation unless the drawer is closed and fully latched.

(4) Keyboard: The keyboard shall be the basic mode of information entry. It shall consist of 10-numeric value keys arranged in standard adding machine configuration, functional keys as required to perform all cash register functions and transaction keys to perform all required cash register transactions. An audible tone will sound when a key is depressed or an error is made.

(5) Displays: Operator and customer displays are required. Both will be large, easy to read panels having a minimum character height of 1/2 inch. It will display a minimum of 8 numeric values and required transaction indicators. The customer display must be viewable by customers at all times.

(6) Printer Tapes: Must print a Customer Receipt Tape and a Journal Tape.

(a) Customer Receipt Tape will print header, proper descriptors (including department number) next to amounts and the date. Receipt print shall be legible and self-explanatory and be identified with a cash register number and a transaction number.

(b) Journal Tape will contain the date, each transaction total, no sales, voids, refunds, overrings, coupons, tender type, X and Z readings and a non-resettable customer or transaction counter printed on it. It shall be legible and self-explanatory. Changing of receipt and journal tape will not require removal of any part of the print mechanism or electroplate.

(c) ECRs will have a Customer Receipt and Journal Tape (two station) alpha/numeric dot matrix printer units. Unified ECRs will have a "fixed" self-contained, 2-station printer unit with either a drum or alpha/numeric, dot matrix print element.

(d) The 2-station printer receipt and journal paper will be single-ply rolls having identical dimensions to allow one size roll to fit both printers. Paper will be either 38MM or 44MM wide. The receipt and journal will space and

feed paper independent of the other.

(e) The journal tape will be automatically rolled and stored in a compartment

(7) Grand Totalizer: Must have a non-resettable grand totalizer, non-resettable Z reset counter and non-resettable transaction counter. It must produce an X and Z readout tape totaling each/all functions of the register. The non-resettable grand totalizer and Z reset counter need not print on the X tape. The Z readout, after initial printing, must clear all totals except the three non-resettable totalizers.

(8) Electronic Memory Unit: Will identify by letter abbreviation or numerical identification department numbers, total, change, amount tendered, X and Z operations and any other salient features of the ECR.

(9) Totals and Counters:

(a) The register shall have the capability to total all departments with each having a separate total that accumulates net sales, i.e., sales minus refunds and voids.

(b) Grand Totals: The grand total shall be the result of accumulating gross sales data unaffected by refund and void key entries, i.e., it shall not be decreased by refund and void key transactions. The grand total will be non-resettable, nine-digit capacity and will print on the receipt and journal when read (X read operation).

(c) Counters: All counters will be four-digit capacity and non-resettable providing a continuous count for customers or transactions.

(10) Power Requirements: The equipment will have a factory installed, internal power supply that is designed to operate using the commercially available power within the Exchange facility.

(11) Memory Protection: The register will be fully operational after power interruptions or outages without any loss of programming parameters or accumulated totals for a minimum of 125 hours. Register with operating memory on/off switch is not acceptable.

c. Electronic POS System. Offerors who have not previously obtained the Exchange approval of their Electronic POS System must send a request to the Exchange Representative with adequate information demonstrating the capabilities of the system and its compatibility with paragraph 13, Internal Controls, of Exhibit C, Special Provisions. If the request is not approved, offerors must provide the Electronic Cash Register as identified in paragraph 13.b. above. When an Electronic POS System is approved in writing by the Exchange Representative, the requirements of 13.a.(3) and 13.a.(4) above are not waived. However, in lieu of Exchange Form 6650-24, Concessionaire Cash Register Adjustment Voucher, the concessionaire may use a printed POS form completed in accordance with paragraph 13.a.(3). The requirements of paragraph 13.a.(4) are waived only if the POS system has an electronic journal tape. All other requirements of this Special Provision still apply. Concessionaire must supply all documents described in their approved system procedures with each settlement report. Modifications of the approved procedures and reports will require written approval of the Contracting Officer prior to implementation.

d. Forms. The following procedures apply if customer property is accepted for servicing, a deposit is collected, an item is rented, an item is sold on layaway, an item is purchased to be delivered, or an item is ordered for customers.

(1) Concessionaire will provide prenumbered claim tickets, work orders, sales forms, or order forms as appropriate, acceptable to the contracting officer. Forms will list concessionaire's name, followed by the phrase "Exchange Service Concessionaire." Where the contract specifies that the concessionaire will perform under an Exchange Corporate Identity, the phrase "Exchange Service Concessionaire" will be replaced with the name and logo of the Exchange Corporate Identity. A separate number series will be used for each outlet and forms will be numbered to preclude repetition of numbers during the contract. Concessionaire will submit a list of forms assigned for use by each outlet or route to the supporting exchange office. Distribution of copies will be prescribed by the contracting officer.

(2) Concession activities accepting customer property for servicing or processing will use claim tickets providing spaces for the following information as applicable: (a) date of order, (b) customer's name, rank, organization or address, and telephone number, (c) description of customer property, (d) list of each service performed, (e) charge(s) for each service, (f) sales tax if applicable, and (g) the following: "If the property identified on this order is not picked up within 90 days after the item is ready, the customer donates and transfers all right, title, and interest in the property to the Army and Air Force Exchange Service." (In case of privately-owned vehicles left for servicing, the customer will be required to sign adjacent to the clause on the concessionaire copy of the order.)

(3) Forms will be used in numerical sequence. Voided forms will be annotated with the number of the form used to replace it and processed as a completed transaction. Customer identification and a full description of each product sold, or service performed, will be listed on the form and the charge for each item listed separately. Parts and/or products will not be included with service as a single charge. If the contract requires a cash register with a sales form validation feature, the concessionaire will validate each form for every sales transaction.

(4) The customer will be furnished a copy of completed form. If a customer calls for property without a claim

ticket, require identification, obtain the customer's signature on the control copy, countersign, and indicate the date of pickup.

(5) Route sales will be shown separately on the settlement report.

(6) If a customer picks up a portion of the items listed on a claim ticket, the unclaimed items will be listed on a new claim ticket, and the customer furnished a copy.

(7) Completed forms will be retained in the originating activity for 90 days (1 year for automotive activities) after the applicable settlement report date. After this period, concessionaire will remove forms from the concession activity and maintain at concessionaire's records storage area for three (3) years after final payment under the contract.

e. Customer Daily Sales Register. If a cash register is not required, concessionaire must use Exchange Form 6550-9, Customer Daily Sales Register. The register will be prepared in duplicate, showing the applicable sales data and signed by the customer. Each sale will be recorded on the sales register at the time payment is made. Customers will be given a receipt showing the name of the concessionaire, item purchased, purchase price, and date of sale. Customer refunds will also be recorded on the sales register. Refund amount will be enclosed in brackets and deducted from register totals. Each refund entry must contain the customer's name, address, telephone number, and signature. Attach a copy of all completed register pages to the settlement report.

f. CPOS Tablet

(1) Periodic Commodity Concessions:

(a) When used by periodic commodity concessions, all sales transactions will be recorded on an Exchange-furnished CPOS tablet.

(b) Concessionaire or authorized concession personnel shall review the sales event data displayed on the tablet for accuracy and completeness prior to confirmation. Concessionaire will inform the Services Business Manager of any discrepancies or inaccuracies which need correction prior to confirmation. By clicking the Confirmation box on the tablet, Concessionaire agrees to be solely responsible for the accuracy and completeness of the sales event data, and will pay any and all fees or costs associated with or arising from any inaccuracy or incompleteness of data that the concessionaire or concession authorized personnel confirms.

(c) Privacy Act Training: The concessionaire and authorized concession personnel who are working an Exchange sales event must complete the DoD Privacy Act Training in accordance with General Provisions, paragraph 22h, Privacy Act prior to the commencement of the contract, annually at the anniversary date of the contract, and anytime new concession personnel is hired. The concessionaire must print and keep all Privacy Act training certificates of completion on file for review upon Exchange request. During the CPOS tablet login process, the concessionaire will confirm the completion of the Privacy Act training.

(d) During downtime, sales transactions will be recorded on a Customer Daily Sales Register (CDSR) Exchange Form 6550-009. When the system is back online, the concessionaire will enter the transactions into the CPOS tablet from the CDSR, void the CDSR and return it to the Services Business Manager.

(e) Concessionaire will be responsible for the following:

(i) Concessionaire will record all sales transactions including refunds at the time of the transaction on the Exchange-furnished CPOS tablet.

(ii) Concessionaire will document refunds, over-rings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) using the Concessionaire Cash Register Adjustment Voucher, Exchange Form 6550-24.

(iii) Concessionaire will offer customers electronic (e-) sales receipts; when customers decline an e-receipt, the concessionaire will provide a sales receipt showing the name of the concessionaire, item(s) purchased, purchase price, and date of sale.

(iv) Concessionaire will provide a cash drawer in lieu of a cash register.

(v) Concessionaire will post the Privacy Act statement in the proximity of the CPOS tablet for customers to review.

(2) Full-time Concessions:

(a) The Exchange will provide a CPOS tablet, docking station, cash drawer, magnetic strip reader, and a receipt printer. Concessionaire or authorized concession personnel shall review the contract data displayed on the tablet for accuracy and completeness prior to confirmation. Concessionaire or authorized concession personnel will inform the Services Business Manager of any discrepancies or inaccuracies which need correction prior to confirmation. By clicking the Confirmation box on the tablet, Concessionaire agrees to be solely responsible for the accuracy and completeness of the contract data, and will pay any and all fees or costs associated with or

arising from any inaccuracy or incompleteness of data that the concessionaire or authorized concession personnel confirms.

(b) Privacy Act Training: The concessionaire and authorized concession personnel must complete the DoD Privacy Act Training in accordance with General Provisions, Clause 22, Privacy Act prior to the commencement of the contract, annually at the anniversary date of the contract, and anytime new concession personnel is hired. During the CPOS tablet login process, the concessionaire will confirm the completion of the Privacy Act training. The concessionaire must print and keep all Privacy Act training certificates of completion on file for review upon Exchange request.

(c) Concessionaire will be responsible for the following:

(i) The concessionaire will record all sales transactions including refunds at the time of the transaction on the Exchange-furnished CPOS tablet.

(ii) The concessionaire will document refunds, over-rings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) using the Concessionaire Cash Register Adjustment Voucher, Exchange Form 6550-24.

(iii) An e-sales receipt will be offered to customers. When the customer declines an e-sales receipt, the concessionaire will print the receipt.

(iv) Concessionaire and authorized concession personnel will have access to the following Admin Menu items and enter the information as follows:

(1) Contract Details: to review and confirm the accuracy of Exchange fee, equipment rental fee, Mil Star processing fee and other contract details.

(2) Associate Maintenance: to set up associate information and reset employee personal identification number (PIN).

(3) Key and Tax Setup: to enter the item description, item price, and tax in accordance with Clause 16, Taxes. Concessionaire or authorized concession personnel will immediately enter price changes into the CPOS tablet in accordance with Clause 23, Price Revisions.

(4) Cash Drawer: to calculate the variance between cash and check transactions entered into the tablet and the actual amount in the cash drawer.

(5) Receipt Setup: Add receipt header information.

(6) Reports. Review reports.

(v) Concessionaire will post the Privacy Act statement in the proximity of the CPOS tablet for customers to read.

(vi) Concessionaire will furnish the supplies (paper and ink) required for the CPOS tablet receipt printer.

14. CONCESSIONAIRE SETTLEMENT REPORT (NOV 15).

a. For concessionaires using an approved Cash Register, Electronic Cash Register, Electronic POS System or a Customer Daily Sales Register, the following shall apply:

(i) Concessionaire will prepare Exchange Form 6550-10, Concessionaire Settlement Report, or other reporting format approved by the contracting officer, in duplicate, for each reporting period, listing each facility separately on the report. Copies of the Z reading receipt tapes (originals only), Concessionaire Cash Register Adjustment Vouchers, Exchange Form 6550-24, and Customer Daily Sales Register, Exchange Form 6550-9 (if authorized for use), for the reporting period will be attached.

(ii) The reporting period will be by calendar month.

(iii) An original Concessionaire Settlement Report must be forwarded to arrive in the supporting exchange accounting office or Exchange Headquarters/FA and one copy of the original to the Exchange Representative no later than the 15th calendar day of the month following the reporting period.

b. CPOS tablet:

(i) Periodic Commodity Concessions: Concessionaire may obtain end-of-day and end-of-sales event summary reports at the conclusion of the sales event via email or from the Exchange-designated location. Concessionaire will pay the fee income due the Exchange at the end of the sales event at the Exchange-designated location. At the conclusion of the sales event or as specified in the contract, concessionaire will submit the fee payment, Concessionaire Cash Register Adjustment Vouchers, Exchange form 6550-024, and Exchange sponsored coupons to the designated Exchange office.

(ii) Full time Concessions: The monthly Settlement report will be available on the 1st day of the following month. Concessionaire or authorized concession personnel will review the monthly settlement report without undue delay.

Concessionaire will pay the fee income due the Exchange as calculated on the report. Concessionaire will submit all supporting documents, such as the Concessionaire Cash Register Adjustment Vouchers, Exchange form 6550-024, and Exchange sponsored coupons to the designated Exchange office by the payment due date.

15. FEE DEPOSIT AND PAYMENT (MAY 99).

a. The "Estimated Fee" is determined by multiplying the contract fee by the estimated monthly sales in the solicitation. The estimated sales may be revised by unilateral contract agreement if the actual sales vary significantly from the estimated sales. Payments must be made to arrive in the supporting exchange accounting office as follows:

(1) If the "estimated fee" is less than \$1,500, the actual fee payment for the monthly reporting period is due no later than the 15th calendar day of the following month;

(2) If the "estimated fee" is \$1,500 or more, concessionaire must deposit with the exchange accounting office one-half the "estimated fee." The full amount of the actual fee for each monthly reporting period is then due no later than the 15th calendar day of the following month. The fee deposit will be refunded to the concessionaire within 30 calendar days of the expiration/termination of the contract, less any amount due the Exchange. No interest will accrue to concessionaire on the deposit while held by the Exchange.

b. Fee (and settlement report) for less than a full reporting period upon termination or expiration of the contract will be forwarded to arrive no later than 10 calendar days after termination or expiration of the contract. Payment of flat fees will be prorated.

c. When the 15th day of the month falls on Saturday, Sunday, or a national holiday, payment will be due the next working day.

d. A late charge of \$75.00 will be assessed on all fee payments not received at the designated payment office by close of business on the date due. This charge will be in addition to other remedies provided by the contract.

16. TAXES (NOV 15).

a. Concessionaire is responsible for determining the applicability of and for payment of all federal, state, host country, and local taxes applicable to the property, income, and transactions of concessionaire. If required by applicable laws and regulations, concessionaire will collect and remit sales taxes to the state. Sales taxes which have been collected as required by Clause 8, Prices, will be excluded from the computation of gross receipts. The amount excluded will be listed on the Concessionaire Settlement Report. The amount of taxes excluded will not exceed the actual sum payable to the state. If required by state law or regulation, concessionaire will obtain and conspicuously display the state sales tax permit.

b. Concessionaire warrants that the contract prices or other consideration do not include any tax or duty from which concessionaire is exempt under the laws or agreements of the United States Government, state or host country where this contract is performed. If any such tax or duty has been included in the pricing or consideration through error or otherwise, the contract pricing or consideration will be correspondingly reduced or adjusted. If for any reason after the contract date, concessionaire is relieved, in whole or in part, from the payment or the burden of any tax or duty included in the contract pricing or other consideration, the contract pricing and/or other consideration will be correspondingly reduced or adjusted.

c. If this contract covers an activity involving a Federal Occupational Tax, concessionaire agrees as a condition precedent to engaging in or operating such activity, to tender to the Exchange the amount of any Federal Occupational Tax applicable thereto if payment has not been accomplished by concessionaire, or to reimburse the Exchange the amount of any such tax the Exchange has paid as a result of the operation of such activity by concessionaire. As between the parties of this contract, notice or demand for payment from an office of the U.S. Internal Revenue Service will be conclusive that the Federal Occupational Tax is payable and in the amount so specified to be due.

d. CPOS Tablet:

(i) Periodic Commodity Concessions: Concessionaire is solely responsible for the proper collection and payment of all applicable taxes regardless of the functionality of the POS application.

(ii) Full-time Concessions: Concessionaire is solely responsible for entering the tax rate, tax exemption, and other tax information into the CPOS tablet and proper collection and payment of all applicable taxes regardless of the functionality of the POS application.

17. CONCESSIONAIRE AND CONCESSIONAIRE EMPLOYEES (CONCESSION PERSONNEL) (Jan 00).

a. Responsible management will be provided during all hours of operation at the concession activity. The manager or designated representative will be knowledgeable of contract terms and conditions and will have authority to conduct

business as required by this contract. Authority will include, but will not be limited to, purchase of operating supplies, maintenance and repair of equipment, training of employees, maintaining prescribed hours of operation, supervision of concessionaire employees, and settlement of customer complaints and claims. The concessionaire will provide written notice to the contracting officer naming the person appointed manager or representative.

b. Concessionaire will furnish a sufficient number of trained, qualified employees to ensure the efficient performance of this contract. New concessionaires will give first consideration for employment to employees of the previous concessionaire, or if direct operated, Exchange employees.

c. All concessionaire employees having customer contact must be able to read, write, and speak English at a fluency level sufficient for efficient performance of the contract.

d. The concessionaire will, at concessionaire's expense, make employees available for any applicable training according to training dates determined by exchange management.

e. Concession personnel must meet the health and security standards prescribed by the contract and applicable regulations, and must obtain installation passes, permits, and security clearances when applicable.

f. Concession personnel will be neat and clean. Customer contact personnel will wear attire typical of styles commonly used by the better local commercial facilities of the same trade and as approved by the contracting officer. Nameplates will be worn by all customer contact personnel. For branded facilities the logo nameplate will be provided by the concessionaire. For non-branded facilities, the standard the Exchange nameplate will be worn in the manner prescribed by current directives. Standard Exchange Nameplates will be furnished by the Exchange to the concessionaire at a nominal cost.

g. Concession personnel will give prompt and courteous treatment to authorized customers.

h. Concession personnel will abide by applicable regulations and directives and conduct themselves so as not to reflect discredit on the Exchange.

i. Concessionaire will discontinue the use of any employee for performance of this contract upon written notice from the contracting officer that the individual is not (or no longer) acceptable for performance under this contract.

Concessionaire will not use any such employee to perform other Exchange contracts without the prior written consent of the applicable contracting officer.

j. Concessionaire will not employ any individual for this contract who has been determined unacceptable for performance under any other Exchange contract or has been separated for cause by the Exchange.

18. ACTIONS TO BE TAKEN UPON TERMINATION (INCLUDING EXPIRATION) (JAN 05).

a. If contractor desires to sell, and the Exchange desires to purchase, any or all of the concessionaire furnished property including equipment, furniture and movable trade fixtures, etc., used in the facility by concessionaire for this contract, the value of the property will be jointly agreed upon by both parties. Contractor must show clear title to all items transferred.

b. Concessionaire will promptly settle concessionaire's account with the Exchange including payment in full of all amounts due; yield up the premises, installed property and fixtures, and all Exchange furnished property, clean and in as good order and condition as when received (damage due to acts of God or the U.S. Government, and ordinary wear and tear excepted); surrender all installation passes, decals, etc., for all concession personnel; and complete satisfactory settlement of all customer complaints and claims. Termination of this contract does not release concessionaire from the obligation to satisfactorily settle customer complaints and claims.

c. Concessionaire will promptly remove all concessionaire furnished property not purchased by the Exchange including equipment, furniture and movable trade fixtures, tools of the trade and supplies. Property will be removed after the close of business on the final day of the contract unless other arrangements have been approved by the local exchange. Upon failure to yield up the premises or remove concessionaire's property as required, the contracting officer may enter the premises, have concessionaire's property removed and stored in a warehouse at concessionaire's expense, and have the premises cleaned and restored at concessionaire's expense. In this event the Exchange will exercise due care in the removal and storage of contractor's property, however the Exchange assumes no liability for any loss or damage to concessionaire property under these circumstances. If concessionaire is indebted to the Exchange, or does not promptly remove concessionaire property, concessionaire authorizes and empowers the contracting officer or their representative to take possession of concessionaire's property and dispose of same by public or private sale without notice, and out of proceeds of sale, satisfy all costs to the Exchange including the costs of sale, handling, storage, etc., and any other indebtedness to the Exchange.

d. If concessionaire is not awarded a follow-on contract, concessionaire will arrange transfer of the activity's telephone number to the new concessionaire unless prohibited by the servicing telephone company.

e. Where concessionaire performed the contract under an Exchange Corporate Identity, concessionaire will cease use

of all the Exchange names and identity standards upon the termination or expiration of the contract.

19. UNCALLED-FOR CUSTOMER PROPERTY (DEC 88).

Customer property not picked up within 90 days from the ready date is uncalled-for customer property and will be handled as follows:

a. Concessionaire will contact the customer if the property is not picked up within a reasonable time after it's ready and will keep a record of contacts. If required by the contracting officer, concessionaire will provide a list of uncalled-for customer property indicating the order/ticket number, customer name, description of item(s), and amount due.

b. The contracting officer will determine disposition of uncalled-for customer property. Uncalled-for customer property valued at more than \$100.00 released to concessionaire must be accounted for. Items sold will be handled as a sale. Fees will be paid on these transactions.

c. Customer vehicles will be turned over to the exchange with copies of the customer order, the work order, the notification to the customer, and all other available documentation.

20. LOST, ABANDONED, AND UNCLAIMED PROPERTY (DEC 88).

Personal property left in the concession area will be promptly returned if the owner can be identified. If prompt return is not possible, the items will be turned over to the appropriate military office for lost, abandoned or unclaimed items. (Example: a customer leaves an umbrella in the concession.)

21. INVENTORY TRANSFER (FEB 89).

a. If this contract is not awarded to the incumbent concessionaire or is for converting an Exchange direct operated service activity to concession operation, the new concessionaire will purchase all unclaimed finished customer orders-which involve processing or repair of customer-owned property-from the previous concessionaire or the Exchange. This does not include uncalled-for customer property, as defined in Clause 19 of this exhibit. The unclaimed finished customer orders are to be purchased by the commencement date of service under this contract, and the purchase price will be the full charge(s) in effect at time customer(s) turned the item(s) in for processing or repair, less any cash deposit(s) and less the Exchange's fee under any previous contract. The outgoing concessionaire will deliver at no charge all unprocessed orders to the new concessionaire. The new concessionaire assumes full responsibility for servicing unprocessed orders and delivering the finished orders to customers at the original price. Payment of fee to the Exchange will be at the rate in either the previous contract or, if previously an Exchange direct operation, this contract. Before starting service under this contract, a listing of transferred inventory-by finished and unfinished work-signed by both the outgoing and incoming concessionaires will be given the contracting officer.

b. Upon expiration or termination of this contract, concessionaire will transfer all undelivered customer orders to any new concessionaire or to the Exchange, as determined by the contracting officer. Payment to concessionaire will be on the basis of the full charge(s) under this contract, less any cash deposit(s) and less the Exchange's fee. Contracting officer will determine appropriate disposal for uncalled-for customer orders. Any monies received from the sale of uncalled-for customer property will be remitted by the Exchange to concessionaire, to the extent of concessionaire's share of the customer charges for services rendered.

22. INDEBTEDNESS (FEB 89).

a. Concessionaire will pay promptly according to the terms of this contract all indebtedness incurred in connection with performing the contract. If a due date is not specified, payments due the Exchange must be received no later than 15 days after receipt of notice of amounts due. If all amounts due under this or other contracts are not received, at any time thereafter the contracting office may direct by written order that daily receipts be turned over to the Exchange until all amounts owing the Exchange are paid.

b. The Exchange may charge concessionaire for a dishonored check received from concessionaire, except when (1) the bank acknowledges the dishonor to be a bank error or (2) the return is the result of an Exchange error. The charge will not exceed the administrative amount the Exchange normally charges its customers for dishonored checks. The contracting officer may require payment to be made in cash, certified check, or cashier's check.

23. PRICE/FEE REVISIONS (FEB 89).

The prices and fees established in this contract will remain firm throughout the term of the contract unless revised according to the following:

a. The contracting officer may initiate a price increase or decrease or grant one at request of the concessionaire. A

price increase or decrease will be at the sole discretion of the contracting officer. In the event of a price decrease, the fee to the Exchange will be decreased to result in the reduction of income due to the price decrease being absorbed by the Exchange. Any increase/decrease in concessionaire expenses directly attributable to price revisions will be taken into consideration by the contracting officer in computing the appropriate fee change.

b. The contracting officer will make such price/fee revisions by issuing a unilateral contract amendment to become effective on the date indicated in the amendment. The concessionaire will implement the prices on the date established in the amendment. The fee revision will be considered final unless concessionaire submits a request for reconsideration to the contracting officer within 30 days after receipt of the amendment. A request for reconsideration may only be based on the fact that the contracting officer's fee revision will result in loss of income to the concessionaire which can be directly attributed to the price revision. After receipt of a request for reconsideration, the contracting officer will reconsider the action and issue a final decision under the Disputes clause of this contract. However, nothing in this clause will excuse the concessionaire from proceeding with implementation of the revised prices on the date established in the amendment.

24. INSURANCE (FEB 89).

a. Concessionaire will maintain in full force and effect, during the contract, at least the insurance coverage in the Insurance Requirements exhibit.

b. Concessionaire will be liable for damage, loss or injury to property or persons resulting from acts or omissions of concessionaire, concessionaire's employees or agents, whether or not covered by required insurance.

25. PROMOTIONAL EVENTS (JUL 10).

Concessionaire will conduct promotional events as specified below:

a. Concessionaire Sponsored (Paid-For) Promotions:

(1) The Concessionaire will conduct promotional events as specified in the contract. Concessionaire will bear all costs and marketing expense for these sales events.

(a) The specific promotional items/services, discounts, and promotion schedules will be determined by written agreement between the concessionaire and the exchange General Manager. If the concessionaire and the General Manager cannot agree, the issue will be submitted to the contracting officer for resolution. Promotional items/services will be comparable to that normally offered by the concessionaire and be available in sufficient quantity to meet customer demand.

(b) The concessionaire will provide the General Manager a proposed promotion program for the balance of the calendar year within 30 days of contract award. The concessionaire will provide a proposed promotional program during the month of November each year for the subsequent calendar year. The promotional program will describe the items/services to be promoted, the dates of the promotion, the discounts proposed and the concessionaire's estimate of the unit sales for the promoted item/services.

(2) If concessionaire operates as a branded business, they will participate in the promotion programs developed by the brand.

(3) Other promotional price reductions for limited time periods may be provided upon written agreement between concessionaire and the Exchange. Such written agreement may provide for temporarily reducing fee in conjunction with the promotional price reduction. The agreement need not be in the form of an amendment to the contract.

b. Exchange Directed Promotions:

(1) Concessionaire will participate in all Exchange Special Coupon Booklets/Programs. Periodically, the Exchange will provide customers with special coupons in recognition of events or achievements (i.e. reenlistments, birth of a child, newcomers, educational achievements, deployments, etc.) for use in purchasing merchandise or services that may be provided under this contract at reduced prices. The coupon will show the specific amount of discount customers will be entitled to receive. The Exchange will fund the full cost of the face value of these coupons and the cost of marketing and advertising materials.

(2) Concessionaire will participate in all Exchange promotions identified in the Promotional Events clause of the Schedule. Cost of these promotions will be as stated in the Schedule and may either be Exchange funded, concessionaire funded, or shared between the Exchange and the concessionaire.

(3) Concessionaire will participate in any other Exchange directed promotions. These promotions may include, but are not limited to, percentage or dollar off coupons, temporary price reductions, reduced prices for service or merchandise with purchase of regular priced service or merchandise, frequent purchase/loyalty card program, gift with purchase, etc. The Exchange will fund the full cost of these promotions.

(4) When the Exchange directed promotions require the redemption of an Exchange coupon, concessionaire must comply with the following guidelines:

(a) Concessionaire will honor and redeem all Exchange coupons presented by exchange customers. The coupons are redeemable at face value only towards purchase of specific item/service indicated, subject to compliance with any time limit and/or other restrictions that may be specified. Coupons will not be redeemed for cash.

(b) The regular sell price (price before discount) will be rung on the cash register. The amount of money collected from the customer will equal the regular sell price discounted by the coupon's face value. Concessionaire will calculate fee to the Exchange based on the regular sell price, before considering the discount customers are entitled to resulting from redeeming the special coupons.

(c) If directed by the Exchange, concessionaire will have the customer print and sign their name and print their telephone number and the date on each coupon redeemed.

c. Concessionaire is encouraged to advertise in media produced primarily for distribution on military reservations to authorized customers. Advertising in commercial media not specifically directed towards the military market, when not otherwise prohibited by the contract, requires prior approval of the contracting officer.

26. EXCHANGE TABLOID/SPECIAL SALES COUPONS, EXCHANGE GIFT CARD REDEMPTION (NOV 15).

a. Exchange Tabloid/Special Sales Coupons:

(1) Concessionaire will enter the total face value amount of the Exchange Tabloid and Special coupons redeemed during a reporting period on the Concessionaire Settlement Report, Exchange Form 6550-10. The coupons received and redeemed will be submitted to the supporting exchange accounting office with the settlement report. The supporting exchange accounting office will verify the coupon amount.

(2) Concessionaire will deduct the total face value of the coupons redeemed from fee payment unless otherwise specified by the contract.

b. Exchange Gift Cards:

(1) Concessionaires will follow all current the Exchange policies and procedures regarding acceptance and processing of gift cards, as set out in Exchange EOP 40-11 (Special Retail Programs).

(2) Concessionaire will honor Exchange Gift Cards and redeem for merchandise. Cash back from the gift card is not authorized in concession activities nor can they be redeemed for cash only at concession activities.

(3) Ring the merchandise selected and total the sale in the cash register or POS system.

(4) Enter the dollar amount of sale in the verifone, swipe gift card on the verifone or manually enter number from back of card.

(5) If the amount of the sale is greater than the face value of the card(s), collect additional amount due from customer.

(6) The Exchange will reimburse concessionaire for amount of the Exchange Gift Card(s) redeemed by exchange customers as follows:

(a) For Verifone: The concessionaire must use ONLY the assigned Verifone to process Gift Cards to eliminate the possibility of not being reimbursed for Gift Cards redeemed. Gift Cards will not be accepted during periods of downtime, or if Verifone is not active or available. The Exchange Gift Card(s) need to be listed on a transaction log, Exchange Form 4200-007, which will be submitted weekly to the Exchange HQs FA office. The Exchange HQs FA office will reimburse the concessionaire the amount on a weekly basis.

(b) For CPOS Tablet: Concessionaire will process the Exchange Gift Card tender through the CPOS tablet and either swipe the Exchange Gift Card or manually enter the card number when the tender type is Exchange Gift Card. The Exchange will reimburse the concessionaire for Exchange Gift Card transactions when using the Exchange-furnished CPOS tablet.

27. REFUNDS (DEC 88).

a. Concessionaire will be responsible for refunds to customers for customer dissatisfaction with an item or service or for any overcharges to customers. Should concessionaire refuse or fail to promptly make any refund of overcharges to a customer, the Exchange may make the refund and charge the amount to concessionaire's account. If a customer cannot be located or if refund to a customer is otherwise not practicable as determined by the contracting officer, concessionaire will pay the amount of the overcharge to the Exchange within 15 calendar days from date of demand by the Exchange.

b. Requests for refunds not promptly honored are considered complaints or claims subject to the provisions of the Customer Complaints and Claims clause.

28. CUSTOMER CHECKS (MAY 05).

a. Concessionaires are strongly encouraged to accept both local and out-of-town checks in payment for merchandise and services.

b. Concessionaire may charge the customer for a dishonored check except when (1) the bank acknowledges the dishonor to be a bank error or (2) the return is the result of a concessionaire error. Concessionaire may not charge more than the administrative amount charged by the Exchange for dishonored checks. Losses from dishonored checks are concessionaire's responsibility.

c. Under no circumstances will the concessionaire record the customer Social Security Number (SSN) on the check.

29. SAFEGUARDING OF CONCESSIONAIRE FUNDS ON ARMY AND AIR FORCE INSTALLATIONS (DEC 88).

a. When more than \$100 are kept in the concessionaire facility during non-operational hours, funds will be secured in a steel safe equipped with a three-position combination tumbler locking device.

b. When more than \$500 are held in the concessionaire facility during non-operational hours, the safe must:

(1) be secured to the premises by being encased in a concrete bed; or

(2) be bolted or steel-strapped to a floor beam or an internal wall support beam with the bolts or straps concealed to prevent cutting or prying; or

(3) weigh in excess of 1,000 pounds.

30. CHARGE CARD AND MILITARY STAR CARD SALES (NOV 15).

a. Charge Cards:

(1) Concessionaire will accept Visa and MasterCard. Concessionaire may also accept other recognized U.S. commercial charge cards.

(2) Concessionaire will accept the GSA Smart Pay Card and Government Purchase Card (GPC) from authorized customers and DoD civilians for official purchases upon presentation of the charge card and a Government Identification Card.

(3) Concessionaire is responsible for the payment of any fees, charge backs, and other arranged costs levied by the charge card issuing companies.

b. Military Star Card:

(1) Concessionaire will accept the Military Star card for products/services as authorized in this contract.

Primary responsibilities are as follows:

(a) Concessionaire will report such sales on the Concessionaire Settlement Report in the same manner as other credit card sales.

(b) The Exchange will provide procedures and forms required to process the Military Star card credit transactions.

(c) Concessionaire will be charged a processing fee of 2.0% of all Military Star card transactions, to include sales tax, less merchandise refunds or adjustments, which will be deducted from the Exchange reimbursement to the concessionaire. The fee percentage may be administratively reduced by the Exchange without contract amendment.

(d) The Exchange will pay the contractor in accordance with the Payments clause shown below.

(e) The Exchange will be responsible for collection of Military Star card account balances from customers.

(f) Concessionaire will handle refunds and adjustments under the Military Star card program in the same manner as other credit card sales.

(g) The term "daily sales receipts" in Special Provision 22, "Indebtedness", is expanded to include any funds payable to the concessionaire under the Military Star card program.

(h) CPOS Tablet: Concessionaire will process the MILITARY STAR® Card tender through the CPOS tablet and either swipe the MILITARY STAR® Card or manually enter the card number when the tender type is MILITARY STAR®.

(2) Payment:

(a) Payment will be made weekly based on concessionaire's weekly summary of Military Star card transactions as verified and reported by the local exchange. A check will be issued weekly covering the prior

Monday through Sunday time period. The check will be sent out approximately one week after the Monday through Sunday transaction period.

(b) Date of payment is determined to be the earliest of the following:

((1)) Date of the check issued to the concessionaire, or

((2)) Date an electronic fund transfer is received by the concessionaire regardless of the date the financial institution posts the transfer, or

((3)) Date a withholding authorized by the contract is initiated by the Exchange.

(c) Payment will be made by mailing a check to the address shown on the contract, unless the concessionaire provides a different "remit to" address to the contracting officer.

((1)) If a contractor wishes to change the address (e.g., street, P.O. Box, city/state) to which payment should be sent or wishes its payments to also reflect a financial institution or a factor's name and be sent to a factor's address, the request must be in writing, signed by a responsible official of the contractor, and submitted to the contracting officer. Any such request must clearly establish which division or subsidiary of a corporation such changes apply to and the address that is superseded by the changes. These changes will become effective when approved by the contracting officer and on the date determined by the Exchange. This will normally be 30 days after approval. Changes will be done on an accommodation basis only, with the understanding that no legal obligation is imposed on the Exchange for failure to make payment to the new payee/address. The contractor may in similar manner, revoke such changes.

((2)) Any request by the contractor to change the name shown on the contract or to assign payment must be sent to the contracting officer.

(d) Any questions or inquiries concerning payments should be directed to the contracting officer. Unidentified and duplicate payments must be brought to the attention of the contracting officer immediately upon discovery. The contractor is required to mail a copy of the Exchange check voucher received with unidentified or duplicate payment highlighted. Under no circumstances should unidentified payments be applied against other amounts due.

(e) Contractors are to wait at least 30 days past the due date of the payment before writing the contracting officer. Any interest penalties due to contractor will be computed in accordance with the Prompt Payment Act, 31, U.S.C. 3901-3906 as amended.

31. INSPECTIONS (MAR 00).

a. The Exchange contracting officer, or any person designated by the contracting officer, may conduct inspections to ensure compliance by the concessionaire with all provisions of this contract.

b. The Exchange may perform surveillance to verify concessionaire and concessionaire employee compliance with contract terms and to detect theft of government funds. Surveillance may include the use of electronic equipment. Concessionaire will inform employees that such surveillance may be conducted and that individuals implicated may be prosecuted in Federal courts. Concessionaire will obtain written certification from all employees that they have been so informed and will maintain the certification on file for the period of the contract. A form for this certification is available from the contracting officer.

c. Concessionaire is liable and will pay the Exchange for losses under this contract detected by surveillance or otherwise discovered or incurred.

32. SMOKING POLICY (DEC 86).

The smoking policy for concession operations will be as directed by the general manager.

33. HEAVY METAL LEACHING (DEC 07).

If there are products furnished under this contract that can reasonably be used to carry food or liquid for human consumption and made of a substance prone to heavy metal leaching such as, and to include, pewterware, earthenware, ceramicware, chinaware, ironware, lacquerware, bronzeware, brassware, leaded crystalware, and coated/plated items with a heavy metal base, Concessionaire warrants that any such product contains no leachable levels of metals dangerous to users. Maximum leachable levels and test methods are established by the U.S. Food and Drug Administration. The Exchange reserves the right to test concessionaire products on an unannounced basis. If a heavy metal leaching failure is found, concessionaire agrees to reimburse the Exchange for all followup costs to sample test the remainder of his items for the duration of the contract. This provision does not supersede, replace, or cancel other remedial provisions allowed by the contract. Concessionaire further warrants that products have been tested by either the U.S. Food and Drug

Administration or a nationally recognized independent test laboratory and found to be in compliance with the current U.S. Food and Drug Administration action levels and test methods. Test data will be furnished to the Exchange upon request by the contracting officer.

34. EXCHANGE/VENDOR PARTNERSHIP MARKETING PROGRAM (JUL 94).

The Exchange Marketing Program consists of numerous elements to enhance the sale of consumer products and services. At the contractor's request, the Exchange will give the contractor the opportunity to participate in selected elements of the Program. All participation will be in conjunction with the sale of authorized products and services to authorized customers. The Exchange reserves the right to limit the degree of participation based on availability, designated themes of special events, and the overall goals of the program.

35. ORGANIZATIONAL SALES (NOV 00).

Concessionaire may sell items to authorized official organizations and activities of the U.S. Armed Forces. Sales will be recorded on the cash register at the time the sales transaction is made. Any losses incurred as a result of organizational sales are concessionaire's responsibility.

EXHIBIT D

PRICE SCHEDULE

1. The concessionaire is authorized to sell items within categories, as follows:

a. Breakfast items, such as: eggs, bacon, sausage, ham, toast, donuts, bagels, muffins, oatmeal, fruit, pastries, yogurts, assorted breakfast items, etc.

b. Lunch items, such as: wraps, sandwiches, soups, salads, cold cuts, hot Panini sandwiches, etc.

c. Beverages, such as: milk, juice, coffee, soft drinks, smoothies, and tea.

2. Pricing Policy:

a. Concessionaire food items will be priced identical to the Exchange direct operations for like menu items. When like menu items are not offered in direct operations or the portion is significantly different the sell price will be the same as the lowest local commercial market for a like item.

b. Concessionaire hot and cold drink menu items are established identical to direct operations for identical items.

c. The exact products, portions and prices will be determined after contract award, but before commencement of performance. The concessionaire will conduct a survey of local commercial establishments and submit a proposed menu, with products, portions and prices, to the exchange General Manager for review and approval. Should the two parties fail to agree on prices, they will conduct a joint price survey of firms in the local market area and establish prices as stated above. The concessionaire will provide an approved menu to the Contracting Officer. Any changes to the approved menu must be approved and provided to the Contracting Officer prior to implementing the change.

3. Promotions

a. Concessionaire will offer 6 promotional events per calendar year, including, and in conjunction with, the Exchange Anniversary Sale. Each promotion will run seven consecutive days and will represent a minimum of 20% savings to the Exchange customer.

b. Voluntary price reductions are authorized to allow sale of products nearing shelf life limits. Special discounts may be offered on "weekly special" items drawn from the established price list.

EXHIBIT E

FEE SCHEDULE

1. Offeror must enter below the single fee percentage offered to the Exchange. Fee will be based on the total adjusted gross sales of all locations in this contract.

FEE

12 %

2. **Fee Deposit:** Pursuant to paragraph 15, Fee Deposit and Payment, of Exhibit C, Special Provisions, and the offeror's proposal, fee deposit will be specified at time of award. The fee deposit must be made prior to the commencement of services.

3. Settlement reports (in duplicate) and fee payment must arrive on the date specified at:

Fort Meade Main Exchange
ATTN: Cash Cage
2799 Rose St.
Ft. Meade, MD

Marcia McShane 6/23/16

EXHIBIT F

INSURANCE REQUIREMENTS

1. The concessionaire/contractor will maintain, during any contract period, insurance coverage specified below. The insurance company(ies) providing coverage must meet the minimum AM Best rating of B++ unless otherwise acceptable to the Exchange. Prior to commencement of service, the concessionaire will furnish the Contracting Officer with a current ACORD Form 25, Certificate of Insurance, showing the insurance is in effect. All liability insurance contracts will name the United States and the Exchange as additional insureds with respect to claims, demands, suits, judgments, costs, charges, and expenses arising out of or in connection with any loss, damage, or injury resulting from the negligence or other fault of concessionaire or concessionaire's agents, representatives, or employees. The "INSURED" block of the Certificate of Insurance must list both the concessionaire's name and the Exchange & the Exchange contract number. Additionally, the concessionaire must ensure each subcontractor obtains the same insurance coverage.

2. The concessionaire will maintain coverage in amounts complying with state or military installation requirements, whichever is greater, where this contract is performed:

A. Worker's Compensation and Employer's Liability Insurance.

B. Automobile Bodily Injury and Property Damage Liability for vehicles operated in performance of this contract by the concessionaire or concessionaire's agents or employees on the military installation, whether or not owned by concessionaire.

3. The concessionaire will maintain the coverage listed below and will furnish a current Certificate of Insurance, ACORD Form 25, in accordance with paragraph one above.

A. Commercial General Liability in minimum limits for Bodily Injury and Property Damage:

\$1,000,000 Each Occurrence Limit
\$2,000,000 General Aggregate Limit

B. Products Liability Insurance in minimum limits of \$500,000 for each occurrence and \$1,000,000 aggregate.

This insurance policy will be written on an "occurrence" basis. A policy written on a "claims made" basis is not acceptable.

4. The concessionaire will deliver the Certificate of Insurance to the contracting officer by email or mail to:

Army and Air Force Exchange Service
Attention: **(PL-K-F/ APG-16-066)**
3911 South Walton Walker Blvd
Dallas, Texas 75236-1598

EXHIBIT G

CONCESSIONAIRE FURNISHED EQUIPMENT

The concessionaire must furnish the following equipment, which meets the stated specifications. Equipment shall be new or in like new condition, acceptable to the contracting officer. Refer to the clause entitled "Equipment, Furniture, and Movable Trade Fixtures," in Exhibit C, Special Provisions.

| <u>Quantity</u> | <u>Item Description</u> |
|------------------------|--|
| 1 | Electronic Cash Register (ECR) - A minimum of 2 department keys is required as follows: Key 1 – <u>Cash</u> Key 2 – <u>Credit</u> |
| 1 | Condiment stand |
| 1 | Trash Receptacle |
| 1 | Credit Card Machine |
| As Needed | Convection oven |
| As Needed | Flat top grill |
| As Needed | Fryers |
| As Needed | Sandwich units |
| As Needed | Panini presses |
| As Needed | Four burner counter top electric hotplate with raised burners |
| As Needed | Bun toaster |
| As Needed | Commercial grade microwave ovens |
| As Needed | Espresso machine |
| As Needed | Four compartment heat and serves |
| As Needed | Prep work table |
| As Needed | Hot dog roller grill |
| As Needed | Beverage/grab and go food merchandiser |
| As Needed | Utilities carts |
| As Needed | Commercial blenders |
| As Needed | Electric fryer filter |
| As Needed | Storage racks |
| As Needed | Meat slicer |
| As Needed | Refrigerated countertop (grab and go display) |
| As Needed | Portion scales |
| As Needed | End load bun rack |
| As Needed | Miscellaneous other equipment and supplies commonly used by commercial establishments |

EXHIBIT H

PRODUCT AND PERFORMANCE SPECIFICATIONS

1. Food Processing and Sanitation:

a. Food Source: All foods (including ice) sold under this contract must be processed/packaged in production plants or facilities that meet the sanitary standards prescribed in the current version of MIL-STD-3006, Department Of Defense Standard Practice, Sanitation Requirements For Food Establishments; AR 40-657, Veterinary/Medical Food Safety, Quality Assurance, And Laboratory Service; and AFI 48-116, Food Safety Program.

Note: Food source changes or additions during the contract period must be approved thru the contracting officer prior to accepting deliveries or offering the items for sale.

Inspections will be performed by the Exchange Receiving Agent or the installation health authorities. If delivery container is inspected at a location other than at the Exchange then the delivery invoice will be stamped or marked by food inspection personnel (and Security Forces if opened due to force protection inspections) as evidence that an authorized inspection was accomplished and products meet contract requirements. Foods determined to be unwholesome, of poor quality, from non-approved food sources, and/or delivered in unsanitary vehicles will not be permitted to be sold under this contract.

b. All items offered for sale will comply with industry accepted food safety and shelf life limitations in addition to those deemed necessary by the installation health authority (Preventive Medicine (PM)/Public Health(PH)/Food Inspectors(FI))

c. Concessionaire must stay abreast of current FDA product recalls and ensure appropriate action is taken to remove affected items from sale and comply with disposition instructions.

d. Concessionaire must contact the installation Health Authorities Office (Army Preventive Medicine and Army Vet Offices or Air Force Public Health Office) prior to initial delivery on this contract to confirm that food items comply with military Approved Source requirements and to establish necessary inspection point and procedures. Mobile snack truck concessionaires must provide the Exchange and the installation health authorities a current schedule of delivery routes/stops for each unit operating on the installation. *In the event of an identified threat to the installation, or a heighten force protection/ Homeland Security Threat Level, the contractor may be required to adjust delivery routes to minimize vulnerability risk and enable direct delivery to Exchange facilities/customers prior to making deliveries to other customers outside the installation.*

e. Contractor is required to take all measures necessary to provide safe and unadulterated products. At a minimum the supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. All delivery vehicles will also be subject to inspection at all times and all places by (to include, but not limited to) the Exchange receiving agent, Contracting Officers Representative, Post Veterinarian, and/or Law Enforcement Officials. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product 'unfit for intended purpose', supplies tendered for acceptance may be rejected without further inspection. As the holder of a contract with the Department of Defense, it is incumbent upon the awardee to insure that all products and/or packaging have not been tampered or contaminated. Delivery conveyances will be locked or sealed at all times, except when actively loading or unloading. Unsecured vehicles will not be left unattended. All incoming truck drivers will provide adequate identification upon request.

f. Food sales areas must comply with current Federal, FDA, DOD, local, state food safety and Force Protection requirements. These include but are not limited to the current version of FDA Food Code, Air Force Instruction 48-116, Food Safety Program, and TB Med 530, Occupational and Environmental Health Food Sanitation. Concessionaires will conduct appropriate background checks and training for drivers delivering to military installation and ensure every effort is made to protect food from intentional or accidental contamination during transportation and sale. Sales areas are subject to routine and special medical inspections without notice. Unsatisfactory rating by the local health officials will be reported to the General Manager immediately by the concessionaire.

g. The concessionaire will allow installation health authorities access to the facility during all hours of operation for the purpose of conducting food safety compliance inspections and vulnerability assessments. Concessionaire will comply with requests by the health authorities for samples of manufactured items. Copies of all unsatisfactory inspection reports must be forwarded to the service business manager within 24 hours of receipt of the report.

h. All plant facilities, machinery, equipment, and apparatus used in the production, processing, handling, storage, or delivery of items under this contract and all items delivered under this contract will meet the sanitary standards prescribed in the current edition of MIL-STD-3006, Department Of Defense Standard Practice, Sanitation Requirements For Food Establishments; AR 40-657, Veterinary/Medical Food Safety, Quality Assurance, And Laboratory Service; and AFI 48-116, Food Safety Program.

i. Thermometers required for immersion into food or cooking media will be of metal stem-type construction, numerically scaled, and accurate to plus or minus 2 degrees Fahrenheit.

2. Concessionaire Vehicles:

a. All trucks used by the concessionaire in performance of the contract will be identified by lettering, stating concessionaire's name. Mobile Snack Vehicles will also display a placard or sign indicating that they are Exchange Concessionaires along with a phone number for the Exchange Point of contact. Vehicles will comply with all state, local, and military standards for vehicle inspection and registration.

b. Vehicles or conveyances used in the transportation of items called for in this contract will be clean, closed vehicles conforming to high standards of commercial transportation, equipped to protect against contamination of the product and maintain food at the required storage temperature during shipment and sale (such as on Mobile Snack Vehicles) Non perishable foods will be shipped under 70° Fahrenheit (21.1° Celsius), chilled items must be shipped and stored at 32° to 41° Fahrenheit (0° to 5° Celsius). And Frozen items will be maintained at 0° Fahrenheit (-17.7° Celsius) or lower. Delivery vehicles must meet military sanitation standards and will be subject to sanitation inspections by installation medical representatives.

3. Employees:

a. Concessionaire employees will wear clean uniforms, maintain a high degree of personal cleanliness, and conform to hygienic practices outlined in current version of FDA Food Code.

b. Concessionaire must comply with applicable state and military medical examination requirements (pre-employment and periodic) for all food handlers. Examinations may be required by the installation medical authority; therefore the concessionaire must contact the installation Health Authority prior to commencing with the operation.

c. Concessionaire will make a daily visual inspection of all food employees for obvious signs of illness, skin disease, infected cuts or boils prior to starting work.

d. All personnel involved in food handling procedures and sales will comply with FDA Food Code and military Employee Health standards. Concessionaire will ensure that employees displaying signs/symptoms such as vomiting, diarrhea, jaundice, sore throat with fever, nasal discharge or lesions that are draining pus are restricted to activities that do not involve contact with food AND/OR excluded from work IAW current FDA Food Code requirements. Employees must have a physician's release certifying that they are not communicable before resuming work.

e. It is each employee's responsibility to inform his or her supervisor of any potential health hazard to include the symptoms listed above in paragraph 3d. Also to be reported is the occurrence among members of the employee's household of Norovirus Salmonella, shigella, E. Coli: 0157:h2, Hepatitis A, or other such food borne illnesses as outlined in current version of FDA Food Code. Employees must have a physician's release certifying that they are not communicable before resuming work.

f. The person in charge (manager on duty) must demonstrate knowledge by being a food protection manager that is certified through a food protection manager certification examination process that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs. A list of ANSI-CEO accredited programs is available through the ANSI website at <http://www.foodprotect.org/food-protection-manager-certification/>. Certificates need to be maintained at the food concept.

4. Bioterrorism: Concessionaire will ensure that both they and their food supply sources are compliant with current Federal, FDA, DOD, local, state and Military Force Protection requirements. These include but are not limited to Facility Registration IAW FDA Bioterrorism Act, 2002, conducting appropriate background checks on drivers delivering to military installation and ensuring every effort is made to protect food from intentional or accidental contamination during storage or shipment.

5. Import/Export Certification Requirements: If importing/exporting food items, contractors must be aware of import/export certification requirements and FDA Certification & Bioterrorism Act Registration requirements and ensure compliance as required. Ongoing updates to these requirements can be found at the USDA Food Safety and Inspection Service web site (<http://www.fsis.usda.gov>)

6. Approved Sources: All deliveries of food items of animal origin and/or classed as perishable (not shelf stable at ambient temperatures) will be inspected for compliance with contract requirements and must be from approved sources listed in the DOD Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement maintained by the U.S. Army Public Health Command (<http://phc.amedd.army.mil/Pages/default.aspx>). Inspections will be performed by the Exchange Receiving Agent or the installation health authorities. If delivery container is inspected at a location other than at the Exchange then the delivery invoice will be stamped or marked by food inspection personnel (and Security Forces if opened due to force protection inspections) as evidence that an authorized inspection was accomplished and products meet contract requirements. Foods determined to be unwholesome, of poor quality, from non-approved food sources, and/or delivered in unsanitary vehicles will not be permitted to be sold under this contract.

7. Tipping: Tipping shall be neither encouraged nor discouraged. Tip jars or similar collection devices are prohibited.

EXHIBIT I

WAGE DETERMINATION (WITH SCA)

WD 14-0368 (Rev.-5) was first posted on www.wdol.gov on 01/05/2016
 Fast Food Services

| | |
|---|---|
| REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT By direction of the Secretary of Labor | U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION WASHINGTON, D.C. 20210 |
| Daniel W. Simms Director | Division of Wage Determinations |
| | Wage Determination No: 2014-0368 Revision No: 5 Date Of Revision: 12/29/2015 |

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Service Contract Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

State: Maryland

Area: Maryland Counties of Anne Arundel, Baltimore, Baltimore City, Carroll, Harford, Howard, Queen Anne's

****Fringe Benefits Required Follow the Occupational Listing****

| OCCUPATION CODE - TITLE | FOOTNOTE | RATE |
|--------------------------------|----------|------|
| 07080 - Fast Food Shift Leader | | 9.92 |
| 07090 - Fast Food Worker | | 9.02 |

The FAST FOOD INDUSTRY covers establishments with the following characteristics:

1. A limited fixed menu which can be prepared by workers following a short training period.
2. No alcoholic beverages served.
3. Customers ordering meals at counter or drive-up locations.
4. Food available almost immediately after order is placed.
5. Tipping not encouraged.

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$.77 per hour or \$30.80 per week or \$133.47 per month

VACATION: \$.17 per hour in paid vacation after 1 year of service with a contractor or successor. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (29 CFR 4.173)

HOLIDAYS: \$.09 per hour in holiday pay. (29 CFR 4.174)

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A link to the Directory may be found on the WHD home page at <http://www.dol.gov/whd/> and through the Wage Determinations On-Line (WDOL) website at <http://wdol.gov/>.