



## Travis County Commissioners Court Agenda Request

**Meeting Date:** October 30, 2012

**Prepared By/Phone Number:** John Carr, 854-4772

**Dept. Head:** Roger El Khoury, M.S., P.E., Director, FMD, 854-4579

**County Executive:** Leslie Browder, Planning and Budget, 854-9106

**Sponsoring Court Members:** County Judge Samuel T. Biscoe

A handwritten signature in blue ink, appearing to read "Roger El Khoury".

### **AGENDA LANGUAGE:**

Consider and take appropriate action regarding the 700 Lavaca Building cafeteria and concession service agreement.

### **BACKGROUND/SUMMARY OF REQUEST:**

At the September 25, 2012 voting session, item #25, the Commissioners Court approved the selection of Luby's Fuddruckers Restaurants, LLC, (Luby's) to provide cafeteria services at the 700 Lavaca Street building. At that time, the Commissioners Court also gave staff direction to develop the appropriate Cafeteria and Concession Service Agreement (C&CSA) between Sentinel Lavaca Management Corp. (Sentinel) as Managing Agent for Travis County and Luby's for these services. The Commissioners Court also directed that this C&CSA be returned to the Commissioners Court for review. Facilities Management Department, Sentinel and County Attorney staffs have worked with representatives of Luby's to develop a C&CSA that is acceptable for all parties. This C&CSA is at Attachment One.

### **STAFF RECOMMENDATIONS:**

Facilities Management Department recommends the Commissioners Court indicate approval of the C&CSA between Sentinel Lavaca Management Corp. as Managing Agent for Travis County and Luby's Fuddruckers Restaurants, LLC, for cafeteria services at the 700 Lavaca Street building.

### **ISSUES AND OPPORTUNITIES:**

With Commissioners Court approval of the C&CSA, food services at the 700 Lavaca Building cafeteria are expected to begin on November 1, 2012. The base contract will be for one year with three options to extend services for additional one year periods.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

Revenue of \$18,000 per year will flow into the 700 Lavaca account.

**ATTACHMENTS/EXHIBITS:**

1. 700 Lavaca Cafeteria and Concession Services Agreement

**REQUIRED AUTHORIZATIONS:**

John Hille, County Attorney's Office, 854-9642

## **CAFETERIA AND CONCESSION SERVICES AGREEMENT**

This Cafeteria Concession Services Agreement (this "Agreement") is entered into by and between the following parties: Sentinel Lavaca Management Corp. ("Sentinel"), as Managing Agent for Travis County, and Luby's Fuddruckers Restaurants, LLC, ("Luby's" or "Concessionaire"), with offices located at 13111 N.W. Freeway, Suite 600, Houston, TX 77040.

WHEREAS, Sentinel, on behalf of County requested proposals from qualified firms to provide Cafeteria Concession Services; and

WHEREAS, Concessionaire was the successful proposer.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **1.0 DEFINITIONS**

- 1.1 "Auditor" means the Travis County Auditor or her designee.
- 1.2 "Commissioners Court" means the Travis County Commissioners Court.
- 1.3 "County" means Travis County, Texas, a political subdivision of the State of Texas.
- 1.4 "Premises" means the area identified on **Attachment A** within the 700 Lavaca Building in Austin, Travis County Texas, wherein the Services shall be performed by Concessionaire.
- 1.5 "Cafeteria Services" means the items, accommodations, facilities and services described in Sections 3.0, 4.0 and **Attachment B**.

### **2.0 TERM OF AGREEMENT**

2.1 The term of this Agreement shall be for a period of one (1) year, commencing November 1, 2012 and terminating September 30, 2013, unless it is terminated earlier by either party as provided herein.

2.2 County, through Sentinel, has the unilateral option to extend this Agreement for three (3) additional one (1) year periods and (individually, an "Option to

Extend" and collectively, the "Options to Extend") during which all provisions of this Agreement shall remain unchanged and in full force and effect except for the termination date and the minimum guarantee set forth in Section 7.0 hereof. To be effective, Sentinel shall exercise an Option to Extend no sooner than ninety (90) days prior to the expiration of this Agreement, or any extension. The total period for the performance of this Agreement, including all extensions, shall not exceed sixty (60) months. Sentinel has the right to exercise all or a portion of the Options to Extend in any combination it deems necessary. During the Term, or any options, should the County not continue its contractual relationships with Sentinel, Concessionaire will look to County to continue all contractual rights and obligations.

### 3.0 CONCESSIONAIRE OBLIGATIONS WITH RESPECT TO THE SERVICES

3.1 Except as to be provided by County pursuant to Paragraph 6.0, Concessionaire shall provide all personnel, labor, equipment, tools, merchandise, materials, insurance and all other items normally required of a business to provide the Cafeteria Services, including all equipment and fixtures necessary for the attractive display and storage of merchandise. The appearance, appropriateness, and safety of all equipment and fixtures used by Concessionaire is subject to prior and ongoing approval by Sentinel Lavaca Management Corp. Sentinel will have oversight of the Premises.

3.2 Concessionaire agrees to provide the Cafeteria Services in the Premises for the sale of hot food, hot and cold drinks and other items as may be approved by Sentinel. No tobacco items or alcoholic beverages of any kind shall be sold by the Concessionaire in the Premises.

3.3 Concessionaire shall not prohibit nor discourage County employees or officials from using concession premises for the eating or drinking of items brought on the premises.

3.4 Concessionaire shall not assign any of the rights and privileges granted herein without first having obtained the prior written consent of the Commissioners Court. Failure to request consent shall be grounds for termination as described herein.

### 4.0 EQUIPMENT AND FACILITIES PROVIDED BY CONCESSIONAIRE

#### 4.1 Cafeteria Locations.

4.1.1 Concessionaire shall furnish the following items and equipment during the term of this Agreement:

(i) All inventories of food, drink, and miscellaneous items as well as adequate number of employees.

(ii) All utensils, vessels, and disposable items, and microwave oven.

(iii) Cash registers.

(iv) Janitorial services for the Cafeteria Services premises described in **Attachment A**, to include: cleaning grease trap; keeping all cafeteria equipment clean at all times in accordance with NFPA #96, Commercial Cooking Equipment; keeping cafeteria floors clean to the same standard of care maintained at Concessionaire's Luby's Cafeterias; and cleaning within the Premises, and cleaning tables and trash in the atrium during operating hours (Sentinel will clean the atrium after hours).

(v) Any other necessary items or services not specifically mentioned herein which reasonable persons would anticipate or expect to be included in similar operations and in similar facilities, including these listed in **Attachment C**.

4.1.2 Concessionaire will properly clean and disinfect any cooking surfaces utilized, any food preparation areas utilized, food display tables/display cases and sinks on a daily basis in full compliance with County/City health standard requirements. Concessionaire shall furnish grease recovery and disposal. No grease shall be disposed of in sinks. If repair to County-owned equipment is determined to be caused by abuse of Concessionaire operations, the cost of repair may be charged to Concessionaire. Upon expiration of Equipment (identified in Attachment E) warranty expiration, Concessionaire shall be responsible for maintaining and repairing Equipment.

4.1.3 Any equipment to be furnished and installed by Concessionaire shall be of modern design and first class material and shall be in keeping with the general decor of the concession area in which it is installed.

## 5.0 COUNTY RESPONSIBILITIES AND RIGHTS

5.1 County either on its own or through Sentinel, shall furnish the following equipment or items for the Cafeteria Services: (i) the Premises used for the Cafeteria Services as described in **Attachment A**; (ii) all utilities, including air conditioning; (iii) equipment listed in **Attachment E**, attached hereto and made a part hereof; (iv) maintenance and upkeep of the Premises, other than janitorial services; (v) access to the loading dock for all deliveries; (vi) two (2) unreserved parking spaces in the Parking Garage across 8th street for Concessionaire staff parking; and (vii) allow Concessionaire

or its contractor to install and maintain high speed internet for Concessionaire's use in its operations hereunder.

## 6.0 MANNER OF OPERATIONS

6.1 For the Cafeteria Services, Concessionaire shall be open for business from 7:30 a.m. to 3:00 p.m. Monday through Friday, except County Holidays. Concessionaire may request Sentinel to make adjustments to business hours as determined by sales volume, which approval shall not be unreasonably withheld, conditioned, or delayed.

6.2 Concessionaire shall perform in an efficient and orderly manner as is customary in similar operations, and will endeavor to employ only persons who in appearance, manner, and character are suitable for said operation. The Commissioners Court shall have the right to require Concessionaire to dismiss from the Premises covered by this Agreement any employees of Concessionaire whose conduct or dress is improper, inappropriate or offensive; and such employees shall not be employed again on the Premises by Concessionaire without the written consent of the Commissioners Court. Employees will be trained in proper food handling procedures in accordance with County/City regulations to include but not limited to proper washing of hands, hairnets, gloves and basic hygiene. Employees will not handle currency or coins and then handle food without properly washing their hands or donning proper gloves.

6.3 Types, sizes and quality of merchandise, the conditions connected with the sale of such merchandise, and all other relations of Concessionaire with the public shall be subject to the approval of the Commissioners Court. Concessionaire shall emphasize the cleanliness of its operation and quality and freshness of products. Prices of merchandise and price changes shall be subject to the approval of Sentinel which approval shall not be unreasonably withheld, conditioned, or delayed. Concessionaire may, however, decrease the price of any item at any time without prior approval.

6.4 If Concessionaire decides to provide Fountain drinks, they must be dispensed from automatic fountains or barrels using a pre-mixed process for all drinks offered on the market in a pre-mixed process. All such drinks must contain a ratio of one (1) ounce of high quality syrup to each five (5) ounces of cold carbonated water. Each drink must contain only enough ice to provide a cold pleasant tasting drink that will compare with the best bottled drink. Fountain drinks are subject to hydrometer test by a representative of the County at any time and must meet standard specifications. Concessionaire shall furnish lids without charge for fountain drinks being carried out of the concession Premises.

6.5 Concessionaire shall not decrease food and drink portions without the express and prior written approval of Sentinel, which approval shall not be unreasonably withheld, conditioned, or delayed.

6.6 Concessionaire shall comply with all County, City, State and Federal regulations, laws and ordinances which in any manner regulate the operation of the concession described herein, particularly the sanitary and health regulations pertaining to the preparation, presentation and service of food and drinks. Sentinel and County reserve the right to make unscheduled inspections of Concessionaire's cafeteria operations to ensure full compliance with governing sanitary and health regulations for food preparation and service areas. Any violation of said statutes, rules, regulations or ordinances shall constitute a material breach of this Agreement and shall entitle Sentinel to terminate this Agreement immediately upon delivery of written notice to Concessionaire.

6.7 Concessionaire shall secure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful operations of Concessionaire's operations described herein. All taxes and license fees of every kind and character, on account of the operation of said concessions on or account of the ownership of Concessionaire's property imposed by and County, State, Federal or Municipal government, shall be paid by Concessionaire, without deduction from "gross receipts".

6.8 Concessionaire shall cause all concession Premises to be clear of rubbish, filth, and refuse and will place such matter in garbage containers of adequate size and design so as to prevent health and sanitation problems and promote an attractive, clean appearance. All waste will be removed from the Premises on a daily basis. Food waste will not be disposed of down the drain of the sinks.

6.9 Concessionaire shall not authorize or permit the installation of any entertainment device without the prior written consent of the Commissioners Court.

6.10 Concessionaire shall, at its own expense, put in a conspicuous place a list of prices for all items offered for sale; the manner of posting such list(s) shall be that normally practiced by the trade for the quality of concession operations described herein.

6.11 Sentinel and County may maintain a continuing evaluation of the concession Services provided by Concessionaire to ensure that Concessionaire is complying with all provisions of this Agreement. This evaluation may include the quality of the services rendered, the prices charged to the public, the nature and quality of the merchandise offered for sale to the public, the neatness of the Premises and Concessionaire employees, and the non-discrimination practices of Concessionaire in relation to both employment and service to the public. County, through its Employee Wellness Committee, will review the menus. Inadequacies of nutrition or quality shall be remedied by Concessionaire within 10 days after notification.

## 7.0 RECORD OF ACCOUNTS AND PAYMENT PROVISIONS

7.1 The term "gross receipts" as used in this contract shall mean total receipts before the deduction of any costs or expenses (except sales taxes).

7.2 Concessionaire shall prepare and maintain during the term of this Agreement accurate and complete records and accounts reflecting the state of inventory, sales, and expenses. Said records and accounts shall be subject to examination and audit by the County at any reasonable time and upon reasonable notice. The County further reserves the right to inspect Concessionaire's stock at any reasonable time and upon reasonable notice.

7.3 Concessionaire shall make payment to Sentinel on or before the 1st day of the month. As shown in **Attachment F, Revenue Schedule**, attached hereto and made a part hereof; provided, however, that Sentinel shall be guaranteed the minimum sum(s) specified on **Attachment F**. In addition, said monthly payments shall be accompanied by a written statement showing the amount of gross receipts during the preceding month. Make check payable to Sentinel Lavaca Management Corporation and mail or bring to:

**Attention: Doris Zagst**  
**Sentinel Lavaca Management Corp.,**  
**700 Lavaca Street, Suite 900**  
**Austin, TX 78701**

7.4 Concessionaire shall have cash registers for the Cafeteria Services herein described, which shall have a grand total started at zero upon commencing business each day.

7.5 Concessionaire shall furnish the County Auditor within two weeks subsequent to filing a copy of that part of his Federal Income Tax Return which reflects Concessionaire's performance of the Services, and the concession services, described herein.

## 8.0 ACCOUNTING RECORDS AND REPORTS

8.1 The accounting systems used by Concessionaire will be subject to review and recommendation as prescribed by Sentinel.

8.2 During the term of this Agreement Concessionaire shall maintain Travis County Operations Sales Records for each day, in accordance with generally accepted



accounting principles. Records shall include a full, complete, accurate, permanent record and account of all sales and of all sums of money paid or payable for or on account or arising out of business transactions conducted on behalf of the County. Such records shall include but not be limited to sales slips, customer credit records, cash register tapes, invoices, bank account records and their documents of business, after herein referred to as "business records". Concessionaire will be responsible for any returned checks of customers.

8.3 Concessionaire shall preserve such business records and supporting documents for a six (6) month period after the expiration of the Agreement term.

8.4 Upon request by County, Concessionaire shall deliver, within seventy-two (72) hours such business records to Facilities Management or its designated agent or representative for the purpose of having the business audited. Concessionaire specifically authorizes County, its employees, agents and designated representatives to conduct an audit of the business and agrees to fully assist County wherever possible.

8.5 County reserves the right as part of its audit to duplicate and retain copies of Concessionaire business records.

## 9.0 CONCESSIONAIRE REPRESENTATIONS; WARRANTIES

9.1 Concessionaire represents that it has thoroughly examined the requirements, specifications, schedule, instructions and all other contract documents. Concessionaire has made all investigations necessary to thoroughly inform itself regarding the Concessionaire Services as required herein.

9.2 The apparent silence of any requirements included herein about any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail. All interpretations of these requirements shall be made on the basis of this statement.

9.3 Concessionaire warrants that all of the information provided in Concessionaire's original Proposal submitted is true and correct and that Concessionaire will use its best efforts to provide quality service to County. Specifically, this warranty extends to all statements and/or representations made by Concessionaire in the aforementioned Proposal.

## 10.0 CONCESSIONAIRE CERTIFICATIONS

10.1 Concessionaire certifies that it is a duly qualified, capable, and otherwise bondable business entity, that he is not in receivership or contemplates same, and has not filed for bankruptcy. It further certifies that the company, corporation or partnership

is not currently delinquent with respect to payment of property taxes within Travis County. Concessionaire will have a certified Food Service Manager overseeing the operations of the Premises. Workers will all have food handler cards issued by the City of Austin.

10.2 Concessionaire represents and warrants that: (i) all applicable copyrights, patents and licenses that may exist on materials used in this Agreement have been adhered to; (ii) County shall not be liable for any infringement of those rights; and (iii) any rights granted to County shall apply for the duration of this Agreement term. CONCESSIONAIRE AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS SENTINEL, AND COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION AND LIABILITY OF EVERY KIND, INCLUDING EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY FEES, FOR DAMAGES TO ANY PERSON OR PROPERTY ARISING IN CONNECTION WITH ANY ALLEGED OR ACTUAL INFRINGEMENT OF EXISTING PATENTS, LICENSES OR COPYRIGHTS APPLICABLE TO MATERIALS USED IN THIS AGREEMENT.

## 11.0 ASSIGNMENT

11.1 Assignment. Concessionaire shall not assign any part of the Services, rights or obligations under this Agreement without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Agreement unless that specific authority is expressly granted by Commissioners Court.

11.2 Successors Bound. The terms, provisions, covenants, obligations and conditions of this Agreement are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Agreement if the assignment or transfer is made in compliance with the provisions of this Agreement.

11.3 If a change of name is required, Sentinel shall be notified immediately. No change in the obligation of or to Concessionaire will be recognized until it is approved by Sentinel.

## 12.0 FORCE MAJEURE

12.1 If the performance by either party of any of its obligations under this Agreement is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Agreement, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

### 13.0 TERMINATION FOR DEFAULT

13.1 Failure by either Sentinel or Concessionaire in performing any provisions of this Agreement shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Agreement should not be terminated for default. Sentinel may take whatever action as its interest may appear, resulting from such notice. All notices for corrective action, breach, default or show cause, shall be issued by Sentinel or Concessionaire only and all replies shall be made in writing to Sentinel or Concessionaire at the address provided herein. Notices issued by or to anyone other than Sentinel or Concessionaire shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Agreement in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the Contractor. If Sentinel terminates this Agreement because of a default by Concessionaire, then Sentinel shall not be responsible for loss of profits by Concessionaire.

### 14.0 TERMINATION FOR CONVENIENCE

14.1 Sentinel reserves the right to terminate this Agreement upon thirty (30) calendar days written notice for any reason deemed by Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Luby's also reserves the right to terminate this Agreement upon ninety (90) calendar days' written notice for any or no reason. Termination for Convenience shall not be made when termination is authorized under any other provisions of this Agreement. In the event of such termination the County shall pay the Concessionaire those costs directly attributable to work done or supplies obtained in preparation for completion or compliance with this Agreement prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of doing business in which the Concessionaire is engaged. In addition, no costs which can be mitigated through the sale of supplies or inventories shall be paid. If County pays for the cost of supplies or materials obtained for use under this Agreement, said supplies or materials shall become the property of County and shall be delivered to the FOB point shown herein, or as designated by Sentinel. County shall not be liable for loss of any profits anticipated to be made hereunder.

14.2 IT IS ACKNOWLEDGED BY CONCESSIONAIRE THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY TO CHANGE THE SCOPE OF THIS AGREEMENT OR ANY ATTACHMENTS TO IT UNLESS EXPRESSLY

## GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.

14.3 Concessionaire shall submit all requests for alterations, additions or deletions of the terms of this Contract or any attachment to it to Sentinel. Sentinel may present Concessionaire's requests to Commissioners Court for consideration.

### 15.0 SUBCONTRACTS

15.1 Concessionaire shall not enter into any subcontracts for any service or activity relating to the performance of this contract without the prior written approval or the prior written waiver of this right of approval from Sentinel. It is acknowledged by Concessionaire that no officer, agent, employee or representative of County has the authority to grant such approval or waiver unless expressly granted that specific authority by the Commissioners Court.

### 16.0 CIVIL RIGHTS/ADA COMPLIANCE

16.1 Concessionaire shall provide all services and activities required by this Agreement in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans With Disabilities Act of 1990, Public Law 101-336 [S.933] if Concessionaire were an entity bound to comply with these laws. Concessionaire shall not discriminate against any employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition.

### 17.0 GRATUITIES AND CONFLICT OF INTEREST

17.1 Sentinel may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by Concessionaire or any agent or representative of Concessionaire, to any County Official or employee with a view toward securing favorable treatment with respect of this Agreement. If this Contract is terminated by Sentinel pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Concessionaire at least three times the cost incurred by Contractor in providing the gratuities.

17.2 If required by Chapter 176, Texas Local Government Code, the Contractor shall complete and file the Conflict of Interest Questionnaire with the County Clerk, Elections division, 5501 Airport Blvd., Austin, Texas 78751. The Contractor shall update this Questionnaire by September 1 of each year for the duration of this Contract, as required by Chapter 176 of the Local Government Code. In addition, if any statement on a submitted Questionnaire becomes incomplete or inaccurate, the Contractor shall submit an updated Questionnaire. The Contractor should note that the law requires the County to provide access to a filed Questionnaire on the official Travis County internet website

## 18.0 NOTICES

18.1 Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address set forth in this section.

18.2 The address of Sentinel for all purposes under this Agreement shall be:

Doris Zagst  
Sentinel Lavaca Management Corp.  
700 Lavaca St., Suite 900  
Austin, Texas 78701

18.3 The address of Concessionaire for all purposes under this Agreement and for all notices hereunder shall be the address shown below:

Luby's Fuddruckers Restaurants, LLC  
13111 N. W. Freeway, Suite 600  
Houston, Texas 77040

18.4 Each party may change the address for notice to it by giving notice of the change in compliance with this Section.

## 19.0 CONSTRUCTION OF CONTRACT

19.1 Law and Venue. This Agreement is governed by the laws of the United States of America and Texas and all obligations under this contract are performable in Travis County, Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate court of Travis County, Texas.

19.2 Severability. If any portion or portions of this Agreement are ruled invalid, illegal, or unenforceable in any respect, by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

19.3 Headings. Headings and titles at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Agreement.

19.4 Computation of Time. When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Travis County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Agreement are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o'clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.

19.5 Gender and Number: Words of any gender in this Agreement shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in this Agreement clearly requires otherwise.

## 20.0 ENTIRE CONTRACT

20.1 All oral and written agreements between the parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

## 21.0 CONCESSIONAIRE LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION

**21.1 Concessionaire shall indemnify Sentinel, County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the Cafeteria Services provided by Concessionaire under this Agreement. It is the expressed intention of the parties to this Agreement, both Concessionaire and County, that the indemnity provided for in this paragraph is indemnity by Concessionaire to indemnify and protect Sentinel and County from the consequences of Concessionaire's actions. Notwithstanding the foregoing, the foregoing indemnity shall not apply to third party claims, losses, damages, causes of action, and suits related to the negligence or intentional conduct of Sentinel, County, or their respective officers, agents and employees.**

21.2 If any claim, or other action, that relates to Concessionaire's performance under this Agreement, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Concessionaire, Concessionaire shall give written notice to Sentinel and County in compliance with this section of the following information:

21.2.1 The existence of the claim, or other action, within ten (10) working days after notification is received by Sentinel and County;

21.2.2 The name and address of the person, firm, corporation or other entity that made a claim, or that instituted any type of action or proceeding;

21.2.3 The alleged basis of the claim, action or proceeding;

21.2.4 The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and

21.2.5 The name or names of any person(s) against whom this claim is being made.

21.2.6 Except as otherwise directed, Concessionaire shall furnish to Sentinel and County copies of all pertinent papers received by Concessionaire with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

## 22.0 ADDITIONAL GENERAL PROVISIONS

22.1 Concessionaire must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Concessionaire.

22.2 Despite anything to the contrary in this Agreement, if Concessionaire is delinquent in payment of property taxes at the time of providing services, Concessionaire hereby assigns the portion of the amount owing to it under this Agreement that is equal to the amount Concessionaire is delinquent in property tax payments to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.

## 23.0 COUNTY HOLIDAYS

23.1 Concessionaire will not be expected to provide service on Holidays recognized by the Travis County Commissioners Court. At its option Concessionaire may choose to remain open.

## 24.0 MEDIATION

24.1 When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

## 25.0 NON-WAIVER OF DEFAULT

25.1 The waiver of a breach of any term or condition of this Agreement is not a waiver of a subsequent breach of that term or condition, or a breach or subsequent breach of any other term of condition. No official, agent, employee, or representative of County may waive any breach of any term of condition of this Agreement unless expressly granted that specific authority by Commissioner Court.

25.2 All rights of Sentinel and County under this Agreement are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or right to Sentinel or County under it. Any right or remedy in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

## 26.0 CERTIFICATION OF ELIGIBILITY

26.1 Concessionaire certifies that at the time of submission of its offer, it was not on the Federal Government's list of suspended, ineligible, or debarred contractors and that it has not been placed on this list between the time that its offer was submitted and the time of execution of this Agreement. If Concessionaire is placed on the list during the term of this Agreement, Concessionaire shall notify Sentinel. False certification or failure to notify may result in terminating this Agreement for default.

## 27.0 INSURANCE AND LIABILITY

27.1 During the period of this Agreement, Concessionaire shall maintain, at its expense, insurance with limits not less than those prescribed below. With respect to required insurance, Concessionaire shall:

- (i) Name Sentinel and County as additional insureds, as its interests may appear.



- (ii) Provide Sentinel a waiver of subrogation.
- (iii) Provide Sentinel with a thirty (30) calendar days advance written notice of cancellation or material change to said insurance.
- (iv) Provide Sentinel a Certificate of Insurance evidencing required coverages within ten (10) calendar days after receipt of Notice of Award and within ten (10) calendar days of each renewal of the insurance.
- (v) The certificate of insurance should reflect coverage according to the requirements set out in Attachment G, Contractor and Vendor Minimum Insurance Requirements.

CONCESSIONAIRE:

By: \_\_\_\_\_

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

SENTINEL LAVACA MANAGEMENT CORP., ON BEHALF OF TRAVIS COUNTY

By: \_\_\_\_\_

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

**ATTACHMENT A**  
**LICENSED SPACE FOR CAFETERIA SERVICES**

(See Attached)

**Attachment A**

Sentinel Real Estate  
Corporation

700 Lavaca St., Suite 900  
Austin, TX 78701  
Telephone: 512-708-0700  
Fax: 512-708-0712

**700 Lavaca Cafeteria Information**

**Location:** Lower Level of the 315,000 SF office building located at 700 Lavaca St. on the block bordered by Lavaca and Guadalupe Streets and 7<sup>th</sup> and 8<sup>th</sup> Streets in downtown Austin.

**Owner:** 700 Lavaca office building and garage was purchased by Travis County in June 2010 as the site of its general government departments. The Travis County Commissioners and Commissioners Court will be relocating to 700 Lavaca in August 2012.

**Occupancy:** In August 2012, there will be approximately 600 private and County office tenants at 700 Lavaca, with additional County offices relocating in 2012 and 2013. Weekly Commissioners Court public meetings each Tuesday will bring additional people to the building.

**Hours of Operation:** The cafeteria would serve breakfast and lunch, Monday through Friday.

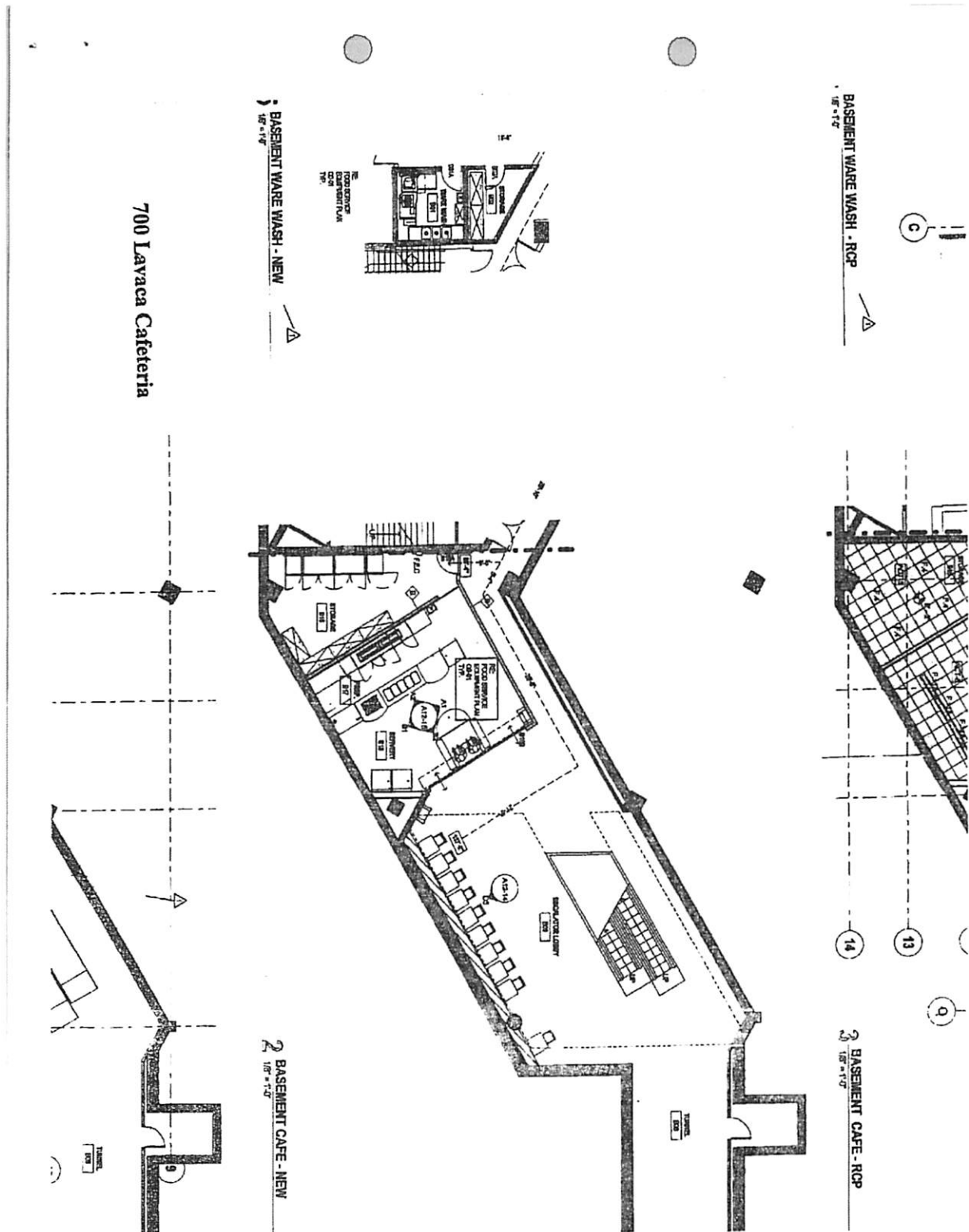
**Other Food Service:** Murphy's Deli operates a deli on the first floor with hours from 7:30 AM to 3:00 PM, Monday through Friday.

**Food Service Equipment:** Travis County is constructing the cafeteria space and providing the equipment per attached plans and equipment schedule. There is no cooking equipment. Food will need to be transported to the cafeteria from a licensed and inspected facility or prepared on-site. The wash area is located down the corridor by the loading dock.

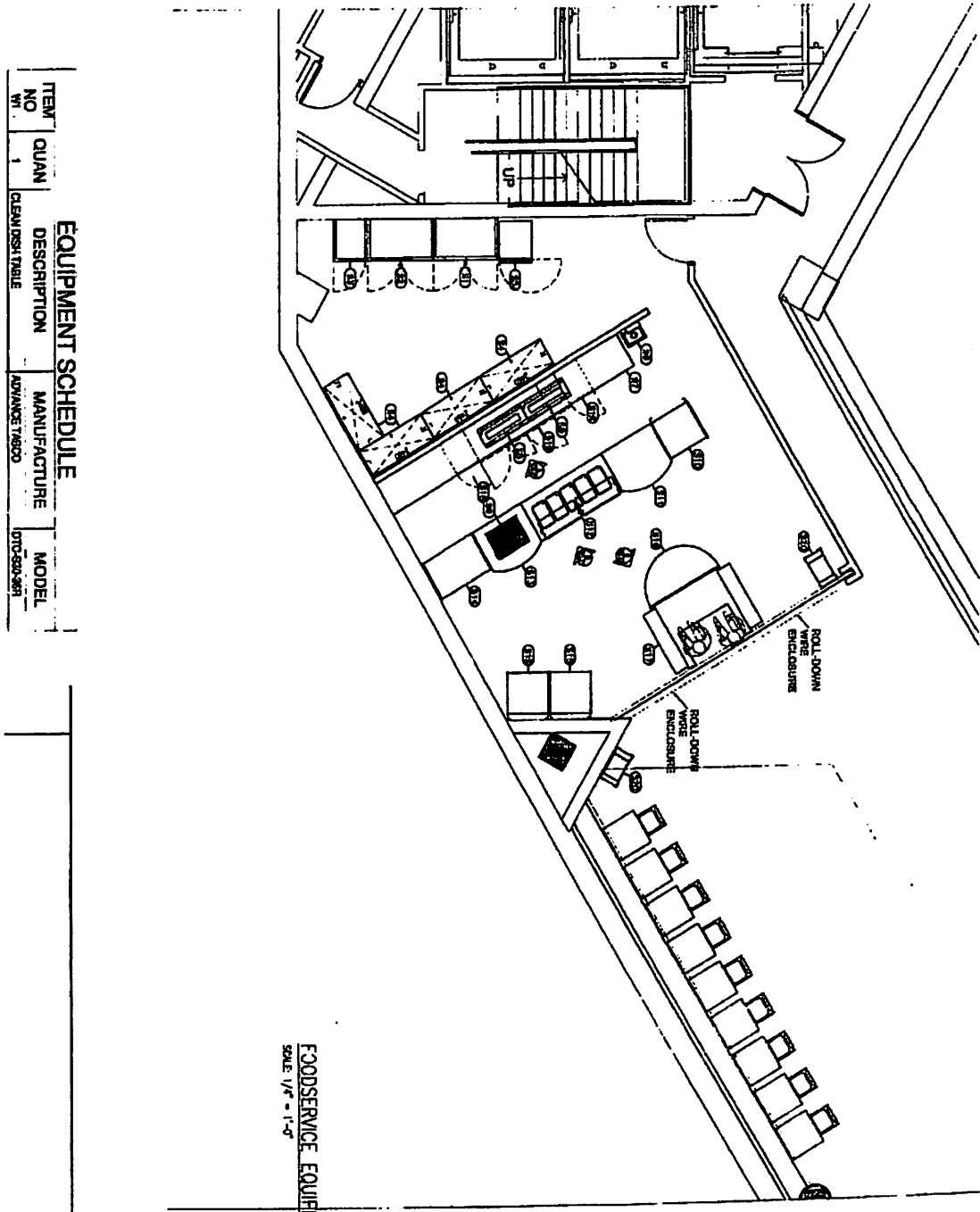
**Vendor Agreement:** The cafeteria will be operated under a vendor agreement with Sentinel Lavaca Management Corp. as Managing Agent for Travis County based on a percentage of sales.

**Management Contact:**

Doris Zagst  
Property Manager  
(512) 708-0700 ext. 3  
Email: [srec700@sbcglobal.net](mailto:srec700@sbcglobal.net)



700 Lavaca Cafeteria





## **ATTACHMENT B**

### **CAFETERIA SERVICES**

Cafeteria Services shall consist of the production of certain food and drink items, as further specified in this Agreement by way of example, offsite of the Premises; the delivery of said food and drink items to the Premises; the sale of said food and drink items on the Premises; and the management of the cafeteria line and surrounding area comprising the Premises, as set forth in this Agreement.

## **ATTACHMENT C**

### **Equipment to be Provided by Concessionaire**

#### **KITCHEN EQUIPMENT & APPLIANCES**

1. 2 Microwave Ovens
2. 1 Fountain Drink Dispenser
3. 1 Coffee Maker
4. 2 Tea urn dispensers

#### **IT EQUIPMENT**

1. 2 SIVA POS Cash Registers
2. 2 Cash Drawers
3. 2 Receipt Printers
4. 1 SIVA Server
5. 1 Report Printer
6. 1 Router
7. 1 Switch
8. 2 Cash Drop Boxes

#### **CHEMICAL SUPPLIES**

1. 4 Hand Sanitizer Dispensers
2. 1 Hand Soap Dispensers
3. 1 (#137) Multi Purpose Surface Cleaner dispenser
4. 1 (#146) Quat Sanitizer dispenser
5. 1 Solid Power Dish Detergent dispenser (Dish Machine)
6. 1 Rinse Dry Dispenser (Dish Machine)



## **ATTACHMENT D**

### **ITEMS AND PRICES**

\*Pricing information is included only as an example and is as of the Effective Date only.  
**Breakfast Menu**

**#1 Scrambled Eggs, Sausage Pattie or Bacon, Biscuit And Hash brown w/  
coffee \$ 4.99**

**#2 Scrambled Eggs and Sausage or Bacon  
w / Coffee \$3.99**

**#3 Sausage Biscuit, Coffee and Hash brown \$2.99**

**#4 Sausage Biscuit, and Coffee \$2.39**

**COFFEE 12 OZ CUPS \$1.49**

**COFFEE 20 OZ CUP \$1.89**

**FRUITJUICE \$1.89**

## Lunch Menu

**Lunch Combo (Entrée 2 Sides and Bread) \$5.99**

**\*Denotes \$1.00 Additional Charge**

**Single Sides \$1.99**

**Tossed Salad \$1.99**

**Premium Chef Salad \$ 5.99 (Turkey, Ham, Or Grilled Chicken)**

### **Seafood**

Luby's Fried Fish  
Baked White Fish  
Baked Almondine  
\*Pan Grilled Fillet  
\*Blackened Tilapia

### **Meat Entrees**

Bacon & Cheese Steak  
Angus chopped Steak  
Chicken Fried Steak  
Spaghetti  
Liver & Onions  
Cheese Enchiladas  
Chopped Steaks  
BBQ Beef Brisket  
\*Baked Ham  
\*Carved Roast Beef  
    **\*Additional \$1.00 Charge**

### **Hot and Fresh Sides**

Fresh Broccoli  
Peas and Carrots  
Buttered Corn  
Macaroni & Cheese  
Pinto Beans  
Black Eye Peas  
Lima Beans  
Great Northern Beans  
Fresh Garlic Green Beans  
Candid Yams  
Italian Cut Green Beans  
Roasted Mixed Vegetables  
Baked New Potatoes  
Rosemary New Potatoes  
Cornbread Dressing  
Broccoli Casserole  
Green Bean Casserole  
Seasoned Spinach

### **Poultry**

Luby's Baked Chicken  
Grilled Chicken Breast  
Roasted Chicken 1/2  
Grilled Chicken Breast  
Roasted Lemon Garlic Chicken  
Luby's Turkey Meatloaf  
Blackened Chicken Breast  
Teriyaki Chicken  
Green Chile Chicken Stew  
King Ranch Chicken  
\* Carved Roasted Turkey Breast  
    **\*Additional \$1.00 Charge**

### **Salads**

Tossed Combination Salad  
Carrot Salad  
Spinach Salad  
Fresh fruit Salad  
Mixed Melon  
Fresh Pineapple  
Pickled Beets And Onions

### **Homemade Desserts \$1.99**

Apple Pie  
Cherry Pie  
Pecan Pie  
Carrot Cake  
Classic Cheesecake  
Chocolate Cake  
Buttermilk Chess Pie  
Yellow Cake w/icing

## Drink Menu

**Sweet And Un-Sweet Tea 20 oz \$1.89**

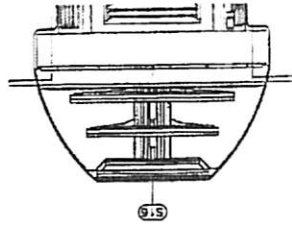
**Soft Drinks 20oz \$1.89**

Coke  
Diet Coke  
Sprite  
Root Beer  
Fruit Punch  
Dr. Pepper  
Lemonade

Bottled Water      **\$1.49**              **Fruit Juice \$1.89**

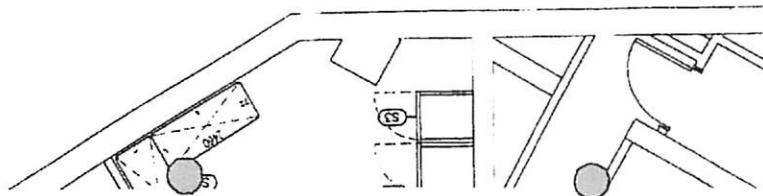
**ATTACHMENT E**  
**EQUIPMENT SUPPLIED BY COUNTY**

The following equipment will be provided by the County for use in the cafeteria:



ITEM NO	QUAN	DESCRIPTION	MANUFACTURE	MODEL
W1	1	CLEAN DISH TABLE	ADVANCE TABCO	DTC-S30-36R
W2	1	DISH MACHINE	HOBART	AM15V-2
W3	1	SOLED DISH TABLE	ADVANCE TABCO	DTS-S30-48L
W4	1	SPRAY RINSE	T & S	B-0133-B
W5	1	DISPOSER	SALVADOR	200-SA-AR58LD
W6	1	THREE COMPARTMENT SINK	ADVANCE TABCO	94-3-54-24RL
W7	1	CHEMICAL SHELF	AMCO	
W8	1	HAND SINK	ADVANCE TABCO	7-PS-80
W9	LOT	STORAGE SHELVING	AMCO	
S1	1	HOT FOOD CABINET	DELFIELD	SAH2-S
S2	1	REFRIGERATOR	DELFIELD	SAR2-S
S3	1	STORAGE FREEZER	DELFIELD	SAP1-S
S4	LOT	STORAGE SHELVING	AMCO	
S5	1	HOT FOOD CABINET, PORTABLE	CRES-COR	H-187-UA-12D
S6	1	HAND SINK	ADVANCE TABCO	7-PS-80
S7	1	BACK COUNTER	CUSTOM FABRICATED	
S8	2	RETHERMALIZER	HATCO	TFWM-3939
S9	1	ROLL-A-GRILL	APW	HR-45
S10	1	DISPLAY REFRIGERATOR	STRUCTURAL CONCEPTS	CO3660R
S11	1	SERVING COUNTER	DELFIELD	DCBU-46R
S12	1	HOT FOOD COUNTER	DELFIELD	DC-H5
S13	1	SERVING COUNTER	DELFIELD	DCBU-46R
S14	1	DISPLAY REFRIGERATOR	STRUCTURAL CONCEPTS	HMB04
S15	2	GRAB-N-BG CABINETS	STRUCTURAL CONCEPTS	CO3660R
S16	1	FEATURED COLD DISPLAY	STRUCTURAL CONCEPTS	FSE65R
S17	1	CASHER COUNTER	CUSTOM FABRICATED	
S18	2	PORTABLE FOOD WARMERS	ALTO SHAMM	1000-S
S19	1	UNDERCOUNTER REFRIGERATOR	DELFIELD	16891BUCM
S20	2	TRAY DISPENSERS	DELFIELD	T1418

Attachment B



## **ATTACHMENT F**

# REVENUE SCHEDULE

Updated 10-25-2012 @ 4:25 p.m.

## ITEM

<b>NO.</b>	<b>DESCRIPTION</b>	<b>PERCENTAGE</b>
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1. CAFETERIA CONCESSION
2. Concessionaire agrees to pay the minimum sum of \$1,500.00 for each month payable on the 1<sup>st</sup> of each month.
3. Concessionaire proposes to supplement the list of equipment to be furnished by the County. Furnished equipment described by the Concessionaire is on the attachments included herein or additional pages may be necessary.
4. Plans of the Cafeteria area are available for review in the office of Travis County Department of Facilities Management, 1010 Lavaca, Suite 400, Austin, Texas 78701.

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## **Attachment G**

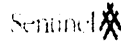
### **Contractor and Vendor Minimum Insurance Requirements**



**Attachment G**

Sentinel Real Estate  
Corporation

700 Lavaca Street  
Suite 900  
Austin, TX 78701  
Telephone: 512-708-0700  
Fax: 512-708-0712



**700 LAVACA  
Austin, TX 78701**

**VENDOR CONTRACT GUIDELINES  
CONTRACTOR AND VENDOR MINIMUM INSURANCE REQUIREMENTS**

The insurance required for all contractors and vendors shall be written with not less than the limits listed below or as required by law, whichever is greater. Any changes from these requirements must be approved in writing.

1. **Workers Compensation**                      Statutory limits
2. **Employers Liability**                      \$500,000 each accident  
    \$500,000 disease – policy limit  
    \$500,000 disease – each employee
3. **Commercial General Liability**  
  
    Insuring against Bodily Injury,  
    Property Damage, Personal  
    Injury, and Advertising Injury              \$1,000,000 each occurrence  
    \$2,000,000 general aggregate  
    \$2,000,000 products/completed operations aggregate

Any general aggregate shall apply on a "per project" basis for contractors. Coverage is to be provided on an "occurrence" rather than a "claims made" basis.

4. **Business Auto Liability**                      \$1,000,000 each accident  
    Coverage shall apply to "any auto."

**NOTE:**

**Travis County and Sentinel Lavaca Management Corp. must both be listed as the certificate holder and additional insured.**

*Sentinel Real Estate Corporation  
700 Lavaca St. Suite 900  
Austin, TX 78701  
Telephone: (512) 708-0700  
Fax: (512) 708-0712*