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CONTRACT FOR GOODS AND SERVICES

BY AND BETWEEN

METROPOLITAN AREA PLANNING COUNCIL

AND

Duva Distributors, Inc.

This AGREEMENT, dated June 17, 2022, is made and entered into by and between the Metropolitan Area Planning Council ["MAPC"], a public body politic and corporate, established by Chapter 40B, Sections 24 through 29 of the Massachusetts General Laws, with its principal office at 60 Temple Place, Boston, Massachusetts 02111, acting as the collective purchasing agent for the Cities, Towns and School Districts ["Buyers"], pursuant to Chapter 7, Section 22B of the Massachusetts General Laws and without liability to MAPC, and Duva Distributors, Inc. ["Vendor"], with its principal office at 983 Millbury St, Worcester, Ma 01607.

Witnesseth that the parties AGREE as follows:

Article I

General Description of the Work

1. Pursuant to the Terms and Conditions of this AGREEMENT, including any Additional and Special Terms and Conditions listed in Exhibit C, the Invitation for Bids ["IFB"] – IFB No. MAPC 2022 Bread for Schools attached in Exhibit B; and the Vendor's Bid attached in Exhibit F, MAPC hereby engages the Vendor to provide the following goods and/or services to the Buyers: Bread Products for Zones 1 and 4.

Article II

Services of the Vendor

2. The Vendor will provide the goods and/or services as described in the IFB cited in Article 1 (above).
3. The Vendor shall report, and be responsible, to MAPC or its designee as set forth on Exhibit A.
4. There shall be no amendment to this AGREEMENT without the written approval of MAPC. MAPC shall be under no obligation to pay for any goods provided or services performed by the Vendor.

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5. The Vendor represents and warrants to MAPC as follows:

   i. That it and all its personnel (whether employees, agents or independent Vendors) are qualified and duly licensed as required by law and/or local municipal code to provide services and/or goods required by this AGREEMENT.

   ii. That it further agrees to perform services in a professional manner adhering to a reasonable standard of care and in accordance with all applicable State or Federal laws, rules and regulations.

   iii. That it will obtain any and all permits, bonds, insurances and other items required for the proper and legal performance of the work.

   iv. That it is not a party to any AGREEMENT, contract or understanding, which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this AGREEMENT.

Article III

Performance of the Vendor

6. In the performance of service under this AGREEMENT, the Vendor acts at all times as an independent contractor. There is no relationship of employment or agency between MAPC, on the one hand, and the Vendor on the other, and neither party shall have nor exercised any control or direction over the method by which the other performs its work or functions aside from such control or directions as provided in this AGREEMENT which the parties view as consistent with their independent Vendor relationship.

7. The Vendor agrees to be responsible for and warrantee the work of any subcontractors it hires and that are listed in Exhibit D and will ensure their compliance with all legal, quality and performance requirements of the Invitation for Bids ["IFB"] – IFB # MAPC 2022 Bread for Schools attached in Exhibit B; and the Vendor's Bid attached in Exhibit F. The Vendor may not use subcontractors not named in Exhibit D without the prior written consent of MAPC, which will not unreasonably be withheld.

Article IV

Time of Performance

8. Time shall be of the essence in relation to Vendor's performance under this AGREEMENT. Vendor shall complete performance as promised in its quote that accompanies the Buyer's purchase order or other document confirming its authorization to the Vendor to proceed. Reasonable extensions shall be granted by the Buyer at the written request of the Vendor, provided the justifying circumstances are documented by and are beyond the reasonable control of Vendor and without fault of Vendor. In the event of such an extension, all other terms and conditions of this AGREEMENT, except the dates of commencement and completion of performance, shall remain in full force and effect between the parties unless modified in writing.

9. In the absence of such an extension, liquidated damages shall be due the Buyer in the amount of 0.1% (one-tenth of one percent) of the face value of the Vendor's quoted or modified purchase

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price for each day performance exceeds the promised date(s). Such liquidated damages may be acknowledged in Vendor's final invoice or taken by Buyer as a deduction to such final invoice.

10. Any dispute in the amount of liquidated damages shall be submitted to arbitration by either Buyer or Vendor through the American Arbitration Association within 10 (ten) business days of written notice given by the party declaring impasse. Vendor and Buyer agree to fully comply with the arbitrator's decision within a reasonable time.

Article V

Revisions in the Work to Be Performed

11. If during the Vendor's Time of Performance, Buyer requires revisions or other changes to be made in the scope or character of the work to be performed, Buyer will promptly notify Vendor in writing. For any changes to the scope of work, Vendor shall provide Buyer with a written quote of change in price and/or change in time of performance and shall proceed with such changes only upon written consent of Buyer, which shall be construed as a modification to Buyer's original purchase order.

12. Buyer will neither unreasonably request revisions nor unreasonably withhold final acceptance of delivered products.

Article VI

Term of Agreement

13. The term of this AGREEMENT shall commence on July 1, 2022 and will continue until June 30, 2023, or until otherwise terminated as provided by this AGREEMENT or the IFB.

14. MAPC reserves the right at its sole discretion to extend the contract for up to two (2) additional one-year terms ending June 30, 2024 and June 30, 2025 respectively.

15. In the event new contracts have not been procured and awarded before the end of a 2nd contract extension, MAPC reserves the right at its sole discretion to extend the contract for an additional period of time until new contracts have been procured and awarded. However, in no instance shall any contract term, including extensions, exceed three (3) years in total.

16. The Vendor agrees to perform promptly upon execution of this AGREEMENT and will diligently and faithfully perform in accordance with the provisions hereof.

Article VII

Orders, Fees, Invoices, and Payments

17. Orders, fees, invoices, and payment shall be processed and paid as specified in the IFB.

Article VIII

Assignment

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18. Neither party shall assign, transfer or otherwise dispose of this AGREEMENT or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party. Any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.

Article IX

Indemnification

19. The Vendor agrees to indemnify and save MAPC and the Buyers harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by the Vendor (including all its employees or agents) in performing under this AGREEMENT, or any breach of the terms of this AGREEMENT, which constitute an obligation of the Vendor. The Vendor shall reimburse MAPC and the Buyers for any and all costs, damages, and expenses including reasonable attorney's fees which MAPC and the Buyers pays, or becomes obligated to pay, by reason of such activities or breach. The provisions of this Section shall be in addition to and shall not be construed as a limitation on any other legal rights of MAPC and the Buyers expressed or not expressed in the IFB and with respect to this AGREEMENT.

Article XI

Insurance

20. Before performing under this AGREEMENT, the Vendor shall obtain, and shall maintain throughout the term of this AGREEMENT, insurance at limits specified in the IFB and provide written documentation of such in the form specified in the IFB as requested in Exhibit E.

21. The Vendor shall give MAPC 20 days (twenty) written notice and copies of documentation in the event of any change or cancellation of coverage.

Article XII

Termination of Agreement

22. Either MAPC or the Vendor may terminate this AGREEMENT for cause upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and satisfactory manner.

23. MAPC shall have the right to terminate this AGREEMENT for its convenience upon fourteen (14) calendar days of written notice.

24. Following termination of this AGREEMENT, the parties shall be relieved of all further obligations hereunder except that:

25. MAPC shall not be liable for payments for the services and/or expenses or lost profits of the Vendor in the event of termination.

26. The Vendor shall remain liable for any damages, expenses or liabilities arising under this AGREEMENT (including its indemnity obligations) with respect to work performed pursuant to the AGREEMENT.

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Article XIII

Entirety of Agreement

27. This AGREEMENT, together with its Exhibits, the IFB referenced above and its Addenda, the required supplemental documents and any additional exhibits, constitute the entire AGREEMENT between MAPC and the Vendor with respect to the matters set forth therein and may not be changed (amended, modified or terms waived) except by a writing signed by both parties. Any notices required or allowed shall be sent by receipt-verified mail, e-mail, fax or courier to the persons designated in Exhibit A.

28. The provisions of the IFB and the Vendor's Bid are incorporated herein by reference. In the event of any conflict among the Contract Documents, the documents shall be construed according to the following priorities:

Highest Priority:	Amendments to Contract (if any)
Second Priority:	Contract
Third Priority:	Addenda to the IFB (if any)
Fourth Priority:	IFB
Fifth Priority:	Vendor's Bid

Article XIV

Severability

29. In the event any provision of this AGREEMENT is found by a court of appropriate jurisdiction to be unlawful or invalid, the remainder of the AGREEMENT shall remain and continue in full force and effect.

Article XV

Governing Law and Jurisdiction

30. This AGREEMENT shall be governed by, construed and enforced in accordance with laws of the Commonwealth of Massachusetts. MAPC, Vendors, and Buyers agree to submit their respective jurisdiction and venue to the state and federal courts in the Commonwealth of Massachusetts to resolve any disputes or disagreements that may arise under any provision of this AGREEMENT.

Article XVI

Notice

31. Except as otherwise expressly provided in this AGREEMENT, any decision or action by MAPC relating to this AGREEMENT, its operation, or termination, shall be made only by MAPC or its designated representative identified in Exhibit A.

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IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized officers on the date written below.

For MAPC by or on behalf of the Cities, Towns and School Districts participating in this IFB and so listed in the document.

DocuSigned by:
x Marc Draisen
6D73E3E389D948C...

7/12/2022

Signature **Date**

Marc Draisen

Name

Executive Director

Title

For the VENDOR:

x Chris Duva

6/17/2022

*** Signature** *** Date**

President

*** Title**

Chris Duva

*** Name**

*** Affix Corporate Seal**

(or mark *"n/a"*)

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EXHIBIT A

Notice Addressees

For MAPC:	For the VENDOR:
Marc Draisen	Chris Duva
Name	* Name
Executive Director	President
Title	* Title
MAPC	Duva Distributors, Inc
Organization	Organization
60 Temple Place	983 Millbury St.
Street Address	* Street Address
Boston, MA 02111	Worcester MA 01607
City, State, ZIP	* Street Address
617.451.2770	508-841-8182
Phone	* Phone
mdraisen@mapc.org	chris@duvadistributors.com
E-mail	* E-mail

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EXHIBIT B

Invitation for Bids #

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EXHIBIT C

Special Terms & Conditions

1. None

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EXHIBIT D

Subcontractors

1. None

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EXHIBIT E

Other Documents:

1. **Insurance Guarantee(s)** **(to be provided for Contract execution)**

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EXHIBIT E

Vendor Bid:

Vendor's Complete Bid

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