



Contract Committee Review Request  
**MUST BE COMPLETED IN FULL**

Date: 5/8/24

Contract/Agreement Vendor:

Name of Vendor & Contact Person

Vendor Email Address

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

Reason/Audience to benefit

BOE Date

Amount of agreement

Person Submitting Contract/Agreement for Review:

**PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK**

Principal &/or Director or Administrator:

Does this Contract/Agreement utilize technology? YES/NO

If yes, Technology Admin:

Cabinet Team Member:

Funding Source:

Fund/Project

OCAS Coding

☒ **Consent**

☐ **Action**

Accept and approve the RENEWAL agreement between Broken Arrow Public Schools and Coca Cola Southwest Beverages, LLC., as the District's vending provider during the 2024-2025 school year. The beverage provider agrees to the commission rates listed in the agreement in addition to sponsorship funding in the amount of \$50,000.00 per year. This is the second (2) year of a three (3) year agreement, and subject to annual board approval.

Summary

*This area must be complete with full explanation of contract*

**The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.**

## BEVERAGE PROVIDER AGREEMENT

This agreement (the "**Agreement**") is made by and between Coca-Cola Southwest Beverages LLC, a Delaware limited liability company ("**Beverage Provider**"), and Broken Arrow Public Schools having its principal place of business at 701 S Main St, Broken Arrow, OK 74012 ("**District**").

### WITNESSETH:

WHEREAS, Beverage Provider is dedicated to being responsive to local school needs and to improving the communities in which it does business, including by supporting youth development and education, and District has requested a variety of beverages for the use of students, faculty and staff;

WHEREAS, District is vested with the appropriate authority and wishes to grant to Beverage Provider the exclusive beverage availability rights described herein with respect to all schools in the Broken Arrow Public School District ("Schools") and with respect to all other facilities owned or operated by the District.

NOW, THEREFORE, in consideration of the promises herein contained, the parties hereto agree as follows:

#### 1. Definitions.

(a) "Agreement Year" means each twelve-month period beginning with the first day of the Term.

(b) "Approved Cups" means disposable cups approved by Beverage Provider from time to time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by Beverage Provider from time to time, all of which shall prominently bear the trademark(s) of Products (as herein defined) on all of the cup surface.

(c) "Beverages" means all non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling or marketing. Powders, syrups, grounds (such as for coffee), herbs (such as for tea), concentrates, K-Cups® pods and all other beverage bases from which Beverages can be made, and brands and products of water purification and beverage making systems (e.g. Brita®, Soda Stream®, Keurig®) are deemed to be included in this definition. For the avoidance of doubt, "flavor enhancers", "liquid water enhancers", and non-alcoholic beverages sold as "shots" or "supplements" are considered Beverages. "Beverage" or "Beverages" shall not include fresh-brewed unbranded coffee and fresh-brewed unbranded tea products, unflavored dairy products, water drawn from the public water supply or unbranded juice squeezed fresh on the Campus.

(d) "Campus" means the entire premises of each and every School and facility owned or operated by District either now or in the future, including without limitation, all elementary, middle, high, post-secondary and alternative schools, athletic facilities, offices, maintenance facilities, and including for each such location, the grounds, parking lots, all buildings which are a part of the location, all cafeterias, faculty and staff lounges, dining facilities, branded and unbranded food service outlets, concession stands, press rooms, sky boxes, stadium suites, vending locations, and players' benches, sidelines and locker rooms. The defined terms "Schools" and "Stadium" are included within the collective term "Campus."

(e) "Competitive Products" means any and all Beverages other than Products (as defined herein).

(f) "Concessionaire" means any third party providing services under contract with District on Campus or to Team that directly or indirectly relates to the service of Beverages.

(g) "Products" shall mean Beverage products purchased directly from Beverage Provider or sold through vending machines owned and stocked by Beverage Provider.

(h) "Stadium" shall mean Tiger Memorial Stadium located at 1901 East Albany St., Broken Arrow OK 74012; and all other stadiums within the Campus including, but not limited to, the grounds, parking lots, all buildings which are part of the Stadium, all concession stands, dining facilities, branded and unbranded food service outlets, press rooms, sky boxes, stadium suites, vending and players' benches, sidelines and locker rooms.

(i) "Team" or "Team(s)" means all interscholastic athletic teams associated with District.

## 2. Term.

Beverage Provider shall have the rights provided herein for a term of Three (3) years, beginning July 1, 2023 ("Term"), unless mutually extended by written Agreement of the parties or unless sooner terminated as provided herein. After the end of the first full Agreement Year of the Term, District shall have the right to terminate this Agreement, for any reason, by giving Beverage Provider written notice sixty (60) days prior to the anniversary date of this Agreement each year of the Term. Additionally, effective at the end of each full Agreement Year, either party shall have the right to terminate this Agreement, with or without cause, by giving the other party sixty (60) days advance written notice. In the event of such early termination, the provisions of Section 10 below regarding repayment shall apply.

## 3. Consideration.

In order to advance the educational mission of the District, to benefit the District, its students and educators, to support school wellness efforts and in exchange for the rights granted to Beverage Provider hereunder, Beverage Provider agrees to provide the following funding, programs and other support described below. The parties intend that the use of funding will be focused on some or all of the following:

- Academic enrichment and scholarships
- Improvement of technology at the Schools
- Additional or improved educational materials
- School and Campus improvements
- Student extra-curricular activities
- Educator and Student reward and recognition programs
- Physical fitness and nutrition education programs
- Teaching kids to consume a balanced diet and be physically active

(a) Sponsorship Funding. Beverage Provider agrees to pay District an aggregate of One Hundred and Fifty Thousand Dollars (\$150,000) for the entire Term (the "**Sponsorship Funding**"). The Sponsorship Funding will be in equal annual installments of Fifty Thousand (\$50,000). The first installment will be paid within sixty (60) days following the date that this Agreement is fully executed, and subsequent payments shall be paid within sixty (60) days following the beginning of each Agreement Year remaining in the Term. The Sponsorship Funding shall be deemed earned evenly on a monthly basis over the Agreement Year in which they are paid.

(b) Rebates. Beverage Provider will pay District a rebate of Four Dollars (\$4.00) for each

standard physical case of 20oz Sparkling, 20 oz. Dasani, 20 oz. Smartwater, 20 oz. Powerade, 20 oz. Vitaminwater, and 18.5oz Gold Peak Tea Products which are purchased and paid for by District for sale on the Campus during the Term ("Rebates"). The Rebates shall be paid annually, in arrears, within sixty (60) days after the end of each applicable Agreement Year in which the Rebate was earned and will be based on Beverage Provider's case sales records. Rebates shall not be earned for sales of Products through Beverage Provider's full service vending machines.

(c) Commissions. Beverage Provider shall pay the District commissions on full-service Beverage vending sales based on the following rates and initial vend prices:

SKU	Y1 Vend Rate	Commission Rate
20oz Sparkling Bottles	\$2.25	30%
12oz Sparkling Cans	\$1.50	30%
20oz Dasani	\$2.25	30%
20oz Smartwater	\$2.50	5%
15.5oz Topo Chico	\$2.50	5%
12oz Dasani PET	\$1.50	30%
20oz Powerade	\$2.50	5%
12oz BodyArmor PET	\$2.00	5%
700ml BodyArmor PET	\$2.75	5%
10.1oz Tum E Yummies	\$1.75	5%
18.5oz Gold Peak Tea	\$2.50	5%
20oz Vitaminwater	\$2.50	5%
10oz Minute Maid Juice	\$2.00	5%

Beverage Provider may at any time decrease commissions by more than that percentage in the event of a substantial increase of a material component of Beverage Provider's cost of goods, manufacture or delivery. Beverage Provider shall notify District thirty (30) days in advance prior to the date any such substantial commission decrease takes effect. The annual commission decrease shall occur automatically.

Commissions are paid based upon cash collected, after deducting legally imposed taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any.

Commissions shall not be payable on any sales from vending machines not filled or serviced by Beverage Provider. Vend prices and packages set forth above shall be in effect through Agreement Year 2. Vend Prices shall increase by twenty-five cents (\$.25) in Agreement Year 3. In addition, Beverage Provider may adjust the vend prices on an annual basis as necessary to reflect changes in its costs, including cost of goods, or to implement cash discounts. Commissions will be paid in arrears, on or about the 20th of each month with an accounting of all sales and monies.

(d) Other Consideration: Beverage Provider shall provide the following to the District:

- (i) Powerade Equipment – Each Agreement Year during the Term, Beverage Provider shall provide District with athletic equipment, including but not limited to, coolers, squeeze bottles and towels. The approximate annual retail value of athletic equipment will not exceed Four Thousand Dollars (\$4,000.00) for each Agreement Year, as determined in good faith by Beverage Provider. The specific mix of Powerade Equipment provided shall be determined by Beverage Provider.

- (ii) Complimentary Product. Each Agreement Year during the Term, Beverage Provider shall provide District, upon District's request, with complimentary Products of Beverage Provider's choosing, with an estimated retail value of Six Thousand Dollars (\$6,000), as determined in good faith by Beverage Provider. In the event District does not request all complimentary Product by the end of each Agreement Year, any remaining complimentary Product shall be retained by Beverage Provider with no further obligation to District.

4. Grant of Beverage Availability and Beverage Merchandising Rights.

District hereby grants to Beverage Provider the following exclusive Beverage availability and merchandising rights:

(a) Beverage Availability on Campus. Beverage Provider shall have the exclusive right to make Beverages available for sale and distribution on Campus. District agrees that Products shall be the exclusive Beverages sold, dispensed, served or sampled at all locations and at all functions on the Campus. District agrees that District and all other persons serving Beverages on Campus, including without limitation Concessionaires, food service vendors, teams, and booster clubs, shall purchase all (100%) of their requirements for Products, Approved Cups and carbon dioxide from Beverage Provider. In particular, District shall cause each School administration to do the following:

- (i) Offer a selection of Beverage Provider's Products to comply with the following standard Beverage guidelines (the "Guidelines") at the Schools indicated below:

First, the Standards:

Elementary:

- bottled water, including carbonated (no size limit)
- low-fat unflavored milk and non-fat milk (including flavored) and milk alternatives (8 oz or less)
- 100% juice, including diluted with water (with or without carbonation) and no added sweeteners (9 fl oz or less)
- No caffeine, except for trace amounts of naturally occurring.

Middle:

- same as elementary, except serving sizes for milk and 100% juice/diluted juice increase to 12 ounces
- No caffeine, except for trace amounts of naturally occurring.

High:

- plain bottled water, including carbonated (no size limited)
- low-fat unflavored milk and non-fat milk (including flavored) and milk alternatives (12 fl oz or less)
- 100% juice, including diluted with water (with or without carbonation) and no added sweeteners (12 fl oz or less)
- Diet beverages up to 20 fl oz (defined as those that are labeled to contain less than 5 calories per 8 fl oz, or less than or equal to 10 calories per 20 fl oz)
- Mid-calorie beverages that are 40 calories or less per 8 fl oz, capped at 60 calories in a 12 fl oz portion size
- Caffeine Permitted



Products offered at the Schools in compliance with the Guidelines shown above shall be available during the regular and extended school day and at all locations in the Schools, except where not permitted by federal or state regulations. The extended school day includes, but is not limited to, activities such as clubs, athletic practices, yearbook, band and choir practice, student government, drama, and childcare/latchkey programs. District represents and warrants that current federal and state regulations permit the sale of Beverages in Schools at least in accordance with the above Guidelines;

(ii) Obtain Beverage vending services from Beverage Provider, which shall have the exclusive right to provide Beverage vending on Campus;

(iii) Offer juice Products, juice-containing Products and other Products in cafeteria lines of all Schools, if such Products meet state, and federal nutrition and procurement regulations and the above Guidelines;

(iv) Permit Beverage Provider to place a minimum of Sixteen (16) Beverage vending machines in mutually agreed upon locations as required to meet Beverage availability needs on Campus;

(v) Permit Beverage Provider to place vending machines in all athletic facilities operated by the District, including the Stadium;

(vi) Except as otherwise limited by this Agreement, cause Products to be hawked in stands in Approved Cups and plastic bottles at all sporting events and during all events when any items of any make or description are hawked on the Campus.

(b) Beverage Merchandising Rights. Beverage Provider shall have the exclusive right to merchandise Beverages on Campus including the following specific rights:

(i) Trademarks for Products shall be prominently listed on the menu boards of all food refreshment outlets on Campus;

(ii) District shall ensure that all post-mix Beverages served or pre-mix Beverages served, sold or dispensed at concessions and for Team use (including Beverages sold, served or made available in locker rooms, sidelines and players' benches) shall be served in Approved Cups.

#### 5. Signage for Products.

Beverage Provider shall be entitled to signage locations as selected by Beverage Provider at the Schools and athletic facilities, including but not limited to advertising panels located on the Scoreboard. Such signage shall meet Beverage Provider's reasonable specifications as to design, construction, and general appearance. The location, size and appearance of any sign are subject to District approval, not to be unreasonably withheld. Without the express written consent of Beverage Provider, Beverage Provider's signage on the Campus shall not be altered, obscured in any way or draped at any time or for any reason by any person or entity, including any broadcaster. District shall maintain the Scoreboard, all signs and other promotional materials for Products in good order and repair. All lighted signs and panels promoting Products (including lighted concession advertising) shall be fully illuminated at all events on the Campus for which any signs are illuminated. Beverage Provider shall have the right of access to its permanent signage at all reasonable times for the purpose of replacement or removal of the same or to modify, change or alter

the promotional messages appearing thereon at Beverage Provider's cost and discretion, subject to District approval of content, not to be unreasonably withheld.

6. Competitive Products. During the entire Term and any renewal or extension thereof:

(a) No Competitive Products may be sold, dispensed or served anywhere on the Campus.

(b) No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Campus, including locker rooms, sidelines and players benches.

(c) No agreement or relationship will be entered into or maintained by District pursuant to which Competitive Products are associated in any manner with the Campus, Schools, Stadium, Teams and/or events at the Stadium in any advertising, promotional activity or other endeavor which creates or tends to create the impression of a relationship or connection between Competitive Products and Campus, Schools, Stadium, Teams and/or events at the Stadium.

7. Pricing. During Agreement Year one, Beverage Provider agrees to offer District pricing as set forth in **Exhibit A**. Such prices shall remain in effect until June 30, 2024. Thereafter, such prices will be subject to an annual increase of no more than Five percent (5%) over the previous Agreement Year's price, except in the event of an increase of a component of Beverage Provider's cost of goods, manufacture or delivery or increases in taxes, deposits and other government related fees, in which case Beverage Provider may increase prices to cover such increased costs. Annual price increases shall occur automatically on July 1<sup>st</sup>.

8. Concessionaires. If, during the Term, District elects to contract with a Concessionaire, District will cause Concessionaire to purchase from Beverage Provider all requirements for Products, Approved Cups, lids and carbon dioxide, as applicable. Such purchases will be made at prices and on terms set forth in Beverage Provider's existing agreement with such Concessionaire, if any. If no agreement exists between Concessionaire and Beverage Provider, such purchases will be made at prices and on terms set forth in this Agreement. District acknowledges that there will be no duplication of allowances, funding or benefits (including pricing) to District or a Concessionaire if such Concessionaire has an existing agreement with Beverage Provider. If such Concessionaire requires Beverage Provider to pay Concessionaire funding or to provide Products pursuant to prices under the separate agreement with Concessionaire, then District agrees that Beverage Provider may deduct such duplicate funding and lost margin on such lower cost Products paid or sold to Concessionaire from any payment made by Beverage Provider to District.

9. Equipment and Service.

(a) During the Term, Beverage Provider will loan to District all Beverage dispensing equipment ("**Equipment**") which is reasonably required in Beverage Provider's discretion to dispense Products at the Campus. District represents and warrants that electrical service on the Campus is proper and adequate for the installation of Equipment, and District agrees to indemnify and hold harmless Beverage Provider from any damages arising out of defective electrical services.

(b) District agrees (i) it will execute documents evidencing Beverage Provider's ownership of the Equipment, (ii) upon request of Beverage Provider, District will execute Beverage Provider's Equipment Placement Agreement ("BPEPA"), however, if any of the terms of the BPEPA are in conflict with the terms of this Agreement, this Agreement will control, (iii) the Equipment may not be removed from the Campus without Beverage Provider's written consent, (iv) District will not encumber the Equipment in any manner or permit any attachment thereto except as authorized by Beverage Provider for the Equipment, and (v) District will be responsible to Beverage Provider for any loss or damage to the Equipment, reasonable wear and tear excepted.

(c) Beverage Provider will provide District with reasonable, free service to its Equipment. All equipment service will be provided during normal business hours. Beverage Provider shall not be obligated to provide service hereunder during periods in which it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the control of Beverage Provider. Beverage Provider shall not be liable for damages of any kind arising out of delays in rendering service.

10. Repayment of Funding. In the event of termination during the Term for any reason, District agrees to repay Beverage Provider pursuant to the terms of **Exhibit B** and not to claim that any of the amounts in **Exhibit B** constitute a penalty and to pay a pro rata refund of the costs of refurbishing and installing the Equipment. The parties further agree that, in the event of termination of the Agreement prior to the end of the Term, the District will pay any costs of court, attorneys' fees or related expenses incurred by Beverage Provider to enforce the terms of this Agreement.

11. Remedies for Loss of Rights.

(a) In addition to any other legal or equitable remedy, District will have the right to terminate this Agreement upon forty-five (45) days prior written notice to Beverage Provider at any time if:

(i) Beverage Provider fails to make any payment due under this Agreement, and if such default continues uncured for the forty-five day period referenced in this Section 11(a); or

(ii) Beverage Provider breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in this Section 11(a).

(b) In addition to any other legal or equitable remedy, Beverage Provider will have the right to terminate this Agreement upon forty-five (45) days prior written notice to District at any time if:

(i) District breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in this Section 11(b); or

(ii) District's right to convey the promotional and Beverage availability rights contained in this Agreement expire or are revoked; or

(iii) Any material component of the Campus is closed for a period of one hundred twenty (120) days or more.

(c) Upon termination of this Agreement for any reason, except as set forth in Section 11(a), District shall pay to Beverage Provider the repayment terms set forth in **Exhibit B** and a pro rata refund of the costs of refurbishing and installing the Equipment.

(d) If any material component of the Campus is closed for more than thirty (30) consecutive days, but less than one hundred twenty (120) consecutive days, Beverage Provider may extend the Term for a corresponding period, whether or not such closure is due to a cause beyond the reasonable control of District.

(e) If (i) any of the rights granted to Beverage Provider herein are materially restricted or limited during the Term or (ii) if there is a closing of any material component of the Campus, or (iii) a Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive days during its scheduled season, (iv) the average daily census for students on Campus for in-person classes,



which District will report to Beverage Provider no later than thirty (30) days after the end of each semester, declines below 90% of the average on Campus, in-person enrollment from Fall 2019, (v) the standard school year is shortened; or (vi) government or other regulation limits or prohibits the availability of Beverages as outlined in Section 4; (whether or not due to a cause beyond the reasonable control of District including a strike or other work stoppage), then in addition to any other remedies available to Beverage Provider, Beverage Provider may elect, at its option, to adjust the Sponsorship Funding to be paid to District for the then remaining portion of the Term (and District shall pay to Beverage Provider as required by **Exhibit B** and a pro rata refund of the costs of refurbishing and installing the Equipment), or to extend the Term of this Agreement, to reflect the diminution of the value of rights granted hereunder to Beverage Provider. In the event Beverage Provider elects to exercise its right to such adjustment and refund, District may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Beverage Provider of its disagreement with the amount of the adjustment. The parties will then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiations, resolve the matter, Beverage Provider may exercise the right of termination described in Section 11(b) above.

(f) Beverage Provider shall have the right to withhold and not pay further Sponsorship Funding or any other amounts which may become payable to District pursuant to this Agreement if: (i) District has failed to perform its obligations hereunder, (ii) Beverage Provider's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties.

12. **Notices.** Any notices or other communication hereunder shall be in writing, shall be sent via registered or certified mail, and shall be deemed given when received.

If to Beverage Provider:

Coca-Cola Southwest Beverages LLC  
Attention: Chris Sheehan  
600 N May Ave  
Oklahoma City, OK 73107

with a copy to:

Coca-Cola Southwest Beverages LLC  
Two Lincoln Centre  
5420 Lyndon B. Johnson Freeway, Suite 800  
Dallas, TX 75240  
Attention: General Counsel

If to District:

Broken Arrow Public Schools  
Attn: Elizabeth Youngquist, Business Analyst  
701 S Main Street  
Broken Arrow, OK 74012

#### **TERMS AND CONDITIONS**

##### Representations, Warranties and Covenants

(a) Representations, Warranties and Covenants of District. District represents, warrants and covenants to Beverage Provider as follows:

(i) District Authority. District has full power and authority to enter into this Agreement and to grant and convey to Beverage Provider the rights set forth herein.

(ii) District Binding Obligation. All necessary approvals for the execution, delivery and performance of this Agreement by District have been obtained, and this Agreement has been duly executed and delivered by District and constitutes the legal and binding obligation of District enforceable in accordance with its terms.

(iii) No Conflict With Other Agreements. District has not entered into, and during the Term of this Agreement, will not enter into (a) any other agreements (including agreements with any broadcaster or any other Beverage providers of the Campus, Schools, Stadium and/or the Teams) which would prevent it from fully complying with the provisions of this Agreement or (b) any agreement granting Beverage availability and merchandising that are inconsistent with the rights granted to Beverage Provider pursuant to this Agreement, including any agreements with Concessionaires or third party food service operators, vending companies, boosters, parents and student groups, and/or other entities which sell, distribute or advertise Beverages and/or food (including agreements with broadcasters or other Beverage Providers of the Campus, Schools, Stadium and/or the Teams). District further covenants that it will require compliance with the relevant provisions of this Agreement by third party food service operators, vending companies, Concessionaires, boosters, parent and student groups, and/or other entities which sell, distribute or advertise Beverages and/or food on the Campus, or which sponsor events on the Campus.

(b) Representations and Warranties and Covenants of Beverage Provider. Beverage Provider hereby represents, warrants and covenants as follows:

(i) Authority. Beverage Provider has full power and authority to enter into and perform this Agreement.

(ii) Binding Agreement. All necessary approvals for the execution, delivery and performance of this Agreement by Beverage Provider, have been obtained, and this Agreement has been duly executed and delivered by Beverage Provider, and constitutes the legal and binding obligation of Beverage Provider, enforceable in accordance with its terms.

(iii) No Conflict With Other Agreements. Beverage Provider has not entered into and during the Term of this Agreement, will not enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

© General. Each of the parties hereto agree that the representations, warranties and covenants contained herein shall survive the execution and delivery, and if appropriate the termination, of this Agreement.

Assignment. District may not assign this Agreement without the prior written consent of Beverage Provider. Beverage Provider may assign all or part of its rights and obligations under this Agreement to any licensed bottler of The Coca-Cola Company ("Company"), Company or any of Company's subsidiaries.

Claims. In no event will Beverage Provider accept any audits of, or claims of discrepancies or errors in, pricing, rebates, commissions, funding, discounts, or other consideration provided under this Agreement ("Claims") more than one (1) year from the date of invoice or the date of funding or consideration, as applicable. In order to present Claims within forty-five (45) days of the date of invoice, commission report, check or other applicable documentation, District shall provide Beverage Provider a detailed, written request specifying the particular price, commission, funding, product, amount in dispute and reason for dispute, along with a true copy of the original invoice, commission report, check or other applicable documentation. In order to present Claims later than forty-five (45) days from the date of invoice (but not more than one (1) year from the date of invoice), District shall provide to the Beverage Provider a request as specified above, and, in addition, submit true copies of any check remittances, and any other relevant documentation showing proof of Claim. Beverage Provider will review each Claim in good faith and provide responses to each properly-made Claim. Beverage Provider will work directly with the District to resolve any Claims or audit issues, but will not interact with third-party auditors or contractors. Any audits requested by District shall take place during normal business hours and shall be conducted at Beverage Provider's place of business.

Modifications. No modification or waiver of any of the terms and conditions of this Agreement shall be effective unless such modification or waiver is expressed in writing and executed by each of the parties hereto. This Agreement may be amended only in writing signed by each of the parties hereto.

Relationship of Parties. The parties are acting herein as independent contractors and independent employers. Nothing herein contained shall create or be construed as creating a partnership, joint venture or agency relationship between any of the parties and no party shall have the authority to bind the other in any respect.

Retention of Rights. District shall not obtain, by this Agreement, any right, title or interest in the trademarks of The Coca-Cola Company, nor shall this Agreement give District the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of The Coca-Cola Company.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Applicable Law. Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities and shall obtain all licenses, registrations or other approvals required in order to fully perform its obligations hereunder.

Jury Waiver. EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE.

Captions. The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provisions set forth herein.

Entire Agreement. This Agreement shall constitute the complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representations, Agreements, promises or statements, either oral or written, by and between either party.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date last below written.

**Beverage Provider:**

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

Printed Name: \_\_\_\_\_

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

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

**District:**

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

Printed Name: \_\_\_\_\_

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

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

## EXHIBIT A

### Pricing Schedule\*

SKU	Units Per Case	Y1 23-24
20oz Dasani	24	\$19.27
20oz Smartwater	24	\$31.32
700ml Smartwater	24	\$34.96
16.9oz Dasani	24	\$19.07
12oz Dasani	24	\$15.30
20oz Sparkling	24	\$31.32
20oz Powerade	24	\$28.92
16oz BodyArmor	24	\$19.11
28oz Bodyarmor	24	\$25.50
12oz MMJTG	24	\$31.44
10oz MM Juice	24	\$27.71
18.5oz Gold Peak Tea	24	\$34.94
20oz Vitaminwater	24	\$36.15

The following package/pricing is for employee/departmental use only and not intended for resale:

SKU	Units Per Case	Y1 23-24
12oz Cans	24	\$15.06

\*All prices are per standard physical case and exclusive of taxes, deposits, handling fees and recycling fees.