



**CONTRACT FOR GOODS AND/OR SERVICES**  
**BID 22-26 School Nutrition Program – Large Kitchen Equipment**

The Board of Public Education for the City of Savannah and the County of Chatham, the body corporate responsible for public education in the City of Savannah and the County of Chatham commonly known as the Savannah Chatham County Public School System (hereinafter referred to as the “District”) and **[Insert Name of Contractor], [Insert Entity Type and Jurisdiction of Organization]** (“Contractor”) enter into this Agreement for the services described in Section 2 below.

- 1. General Nature of Project:** **BID 22-26 School Nutrition Program – Large Kitchen Equipment.**
- 2. Scope of Services:** The goods and/or services to be provided by Contractor pursuant to this Agreement are described in more detail in Attachment “A” to this Agreement: **Scope of Services.**
- 3. Schedule for Performance:** Contractor will begin providing the goods and/or services to be provided under this Agreement by **[Insert Date].**

The agreed upon schedule for Contractor’s performance under this Agreement is described in more detail in Attachment “A” to this Agreement: **Scope of Services.**

- 4. Duration (“Term”) of this Agreement:** This Agreement shall remain in effect from the date it is signed on behalf of the District by a person acting with proper authorization from District’s governing body, the elected School Board until the expiration date specified, unless sooner terminated as provided herein or extended by mutual agreement in writing. The District reserves the right to extend the contract for an additional period by mutual agreement, to the extent allowed by Georgia law and subject to any requirements required by Georgia law.

The District will neither honor nor consider any price increases, fuel surcharges or add-on cost during the original Term of this Agreement or any subsequent extensions except as set forth in Attachment “B” to this Agreement: **Price and Payment Information.**

- 5. Transition Period:** Due to the nature of our purchasing process, the District often requires an existing service provider to continue to provide goods and/or services while the District is in the process of advertising, evaluating, and awarding a contract for the provision of the same goods and/or services in the future. To accommodate this process, the Contractor shall agree to maintain the same terms and conditions set forth in this Agreement for a period up to ninety (90) days after the automatic termination of this Agreement at the end of its term, if requested by the District, as a transition period. In addition, if the Contractor is not the successful bidder for a future solicitation for the same or similar services, he or she shall agree to provide the same goods and/or services provided in this Agreement for a period up to ninety (90) days to allow for an orderly transition to the new provider. The District and the Contractor may mutually agree to a longer transition period.

**6. Compensation to Contractor:** The terms related to the price of the goods and/or services to be provided under this Agreement and the terms of payment to the Contractor are described in more detail in Attachment "B" to this Agreement: **Price and Payment Information.**

**7. Invoice Procedure and Time and Manner of Payment:** The Contractor shall submit invoices to the District requesting payment for goods and/or services provided. Invoices should be submitted to both Accounts Payable Department and the end user placing the order.

**All ORIGINAL INVOICES should be mailed to:**

Savannah-Chatham Co. Board of Public Education  
ATTN: ACCOUNTS PAYABLE  
208 Bull Street, Room 121  
Savannah, GA 31401  
Email: apinvoices@sccpss.com

**Please forward a COPY of all invoices to:**

Savannah-Chatham Co. Board of Public Education  
School Nutrition Program  
Attention: Onetha Bonaparte  
208 Bull Street, Room 308  
Savannah, GA 31401  
Email: Onetha.bonaparte@sccpss.com

Invoices should be submitted with the following information and/or documentation:

1. Purchase Order Number
2. Project Name – **School Nutrition Program – Large Kitchen Equipment**
3. Site Description
4. Description of Work
5. Solicitation Number – **Bid 22-26**

Contractor's provision of this information and/or documentation is a condition to payment by the District to Contractor. If this information and/or documentation is not provided, then the District may demand that the required documentation be provided and may withhold payment until the requested documentation is provided. If Contractor cannot provide the requested documentation for any invoice or portion of an invoice to the District's satisfaction within thirty (30) days of the District's request for documentation, then Contractor will not be entitled to any payment for the undocumented invoice or the undocumented portion of that invoice.

Upon determining that an invoice is properly payable to Contractor, the District shall pay Contractor by check, electronic funds transfer, or credit card within forty (40) days. To the extent Contractor owes the District money in connection with this Agreement or another contract, then the District may also pay invoices submitted by Contractor pursuant to this Agreement by offset or recoupment. If the District pays all or part of an invoice by offset or recoupment, it will provide Contractor with a statement showing how it credited amounts owed by Contractor to the District against that invoice and will provide Contractor with a statement showing Contractor's remaining debt, if any, to the District within thirty (30) days of applying the credit.

**8. Quantities.** Attachment B provides an estimate of the annual quantities of each of the goods and/or services to be provided by Contractor pursuant to this Agreement. The estimated quantities provided are intended as a guide for the Contractor. The District does not obligate itself to purchase the full estimated quantities indicated, even so, the entire amount of any discount offered must be allowed whether or not the purchases are less than the full quantities indicated. The District's requirements may exceed the estimated quantities shown and the Contractor shall be obligated to fulfill all requirements as shown on purchase orders, whose dates fall within the performance period of the contract.

**9. Reimbursable Expenses:** Unless stated in Attachment "B" Price and Payment Information, all prices include expenses. To the extent Attachment "B" Price and Payment Information expressly allows for the reimbursement of certain expenses, reimbursable expenses incurred by the Contractor and Contractor's employees and subcontractors must be preapproved by the District and will be invoiced at cost. Reimbursable expenses must comply with all Georgia Department of Education regulations in force during the Term of this Agreement, even if those regulations change during the term of this Agreement.

**10. Taxes.** Contractor will timely pay all taxes lawfully imposed upon Contractor with respect to this Agreement. The District makes no representation whatsoever regarding any tax liability of Contractor, nor regarding any exemption from tax liability related to this Agreement.

**11. Delays and Extension of Time.** If the Contractor is delayed at any time in the progress of providing goods and/or services by an act or neglect of the District, or by changes ordered in the work, or by labor disputes, strikes, insurrections, fire, acts of God; suspension of operations or disruption of supply chains caused by COVID-19 or another pandemic or epidemic, unusual but well documented and excusable delays in performance, or other causes beyond the Contractor's control, or by delay authorized by the District, then the contract Term of service may be extended by a contract amendment for such reasonable time as the District and the Contractor may agree.

**12. Hazard Analysis and Critical Control Point (HACCP) Requirements.** The District requires Contractor to present a Hazard Analysis Critical Control Point (HACCP) plan during the solicitation process giving rise to this Agreement. The Contractor must follow the provided plan, and the District may require Contractor to provide proof that it is following the HACCP plan. To the extent Federal or State regulations change to impose more demanding HACCP plan requirements or to the extent a Federal or State regulator determines that Contractor's HACCP plan for the District must be modified, then Contractor shall change its HACCP to meet those more demanding requirements. The Contractor shall only purchase goods and/services from manufactures and/or suppliers that have an HACCP program in place that meets or exceeds the District's requirements for the HACCP plan with Contractor. The District may require documentation of HACCP plans implemented by Contractor's manufacturers and/or suppliers. The District may direct the Contractor to stop purchasing goods and/or services from manufacturers and/or suppliers that do not meet the District's HACCP plan requirements.

**13. Pandemic Preparedness and Recovery.** Contractor submitted a business strategic preparedness plan for business continuity and recovery should a pandemic event strike the distributor during the solicitation process giving rise to this Contract. Contractor will follow its pandemic preparedness and recovery plan presented to the District should a pandemic event strike the distributor. Contractor may be in breach of this agreement for failure to do so and will be required to indemnify the District as provided in this this Agreement.

**14. Clean Air Act And Clean Water Act.** Contractor agrees to comply with the applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 7401 et seq., section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations. Contractor certifies that none of the facilities it uses to produce goods provided under the contract are on the Environmental Protection Authority (EPA) List of Violating Facilities; and Contractor will immediately notify the District of the receipt of any communication indicating that any of Contractor's facilities are under consideration to be listed on the EPA List of Violating Facilities. Contractor acknowledges that violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA) and will cooperate with any mandatory reporting procedures.

**15. Energy Policy and Conservation.** Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state's energy conservation plan issued in compliance with the Energy policy and Conservation Act (Public Law 94-163, 89 Stat.871).

**16. Buy American.** Contractor must comply with the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Buy American Act -7 CFR 210.21) which requires schools and institutions participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the contiguous United States to purchase, to maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP. The term 'domestic commodity or product' means—(i) An agricultural commodity that is produced in the United States; and (ii) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. Substantial means over 51% of the final processed product consists of agricultural commodities that were grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

There are limited exceptions to the Buy American requirements that allow for the purchase of non-domestic food when it is truly impractical to use domestic food. In order for the District to approve an exception, the Contractor must document, and the District must make findings supporting, the following:

- (a) Competitive bids reveal that the costs of the U.S. product are significantly higher than the non-domestic products; or
- (b) Use of a non-domestic alternative food is necessary because the domestic good is not produced or manufactured in sufficient and reasonably available quantities of a satisfactory quality.

The District will also consider the use of domestic alternative foods before approving an exception. For example, the District may consider using domestic apples as a substitute for non-domestic pears.

**17. USDA Non-Discrimination Statement.** In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency

(State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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**18. USDA Civil Rights Assurance.** The Contractor hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part 50.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

**19. Debarred, Suspended, And Ineligible Status:** Contractor certifies that neither Contractor nor of its sub-contractors have not been debarred, suspended, or declared ineligible by the District or are listed as excluded parties in the System for Award Management (SAM) in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." Contractor acknowledges that SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractor will immediately notify the District if Contractor is debarred by District or placed on the Consolidated List of Debarred, Suspended, and Ineligible List by a federal entity.

**20. Prohibition Against Conflicts of Interest, Gratuities and Kickbacks:** Any employee or any official of the District, elective or appointive, who takes receives or offers to take or receive, either directly or indirectly, any rebate, percentage of contract, money or other things of value as an inducement or intended inducement, in the procurement business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, contracting for, or in open market seeking to make sales to the District shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment or a fine in accord with state and or federal

laws. Such persons may also be disqualified from being awarded any other purchasing contracts with the District.

**21. Supervision of Contractor Personnel.** The Contractor must supply all necessary and sufficient supervision over the work that is being performed and will be held solely responsible for the conduct and performance of his employees or agents involved in work under the Agreement.

**22. Contractor Personnel.** Contractor's staff is expected to present a professional appearance. All personnel of the Contractor will be neat, well groomed, properly uniformed in industry standard uniforms and are expected to conduct themselves at all times in a responsible and courteous manner while performing any work under this Agreement and/or whenever they are on District property. The following code of conduct will be adhered to by the Contractor, his agent(s) and/or his employees. If Contractor fails to ensure that its employees or other agents comply with these requirements, then Contractor may be terminated for cause under this Agreement:

A. All employees of the Contractor shall wear a recognizable uniform. No hats will be worn inside the building. All of Contractor's employees and agents performing work must carry a government-issued photo ID. Contractor's employees and agents will present ID to District Staff upon request. This provision will be strictly enforced.

B. The use of tobacco or tobacco products on Board property is prohibited by State law.

C. The Contractor will not be permitted to utilize Day Labor or Temporary Workers to provide any services at any District facility. This includes any employees or agents that are hired prior to contract award. Failure to comply with this requirement could result in immediate termination of contract with the Contractor liable for any breach, including liquidated damages for delay damages and/or forfeiture of Performance Bond.

D. The Contractor or employees or agents of the Contractor are not permitted to play loud music, to make unnecessary noises, or to use vulgar or inappropriate language that causes offense to others.

E. The employment of unauthorized or illegal aliens by the Contractor is considered a violation of Section 247A (e) of the Immigration and Naturalization Act. If the Contractor knowingly employs unauthorized aliens, such a violation shall also be cause for termination of this Agreement.

F. Possession of firearms will not be tolerated on Board property. No person who has a firearm in their vehicle will be permitted to park on District property. Any employee of the Contractor found in violation of this policy will be immediately asked to leave, and will not be allowed to return to perform further work without the consent of the District.

G. The Contractor certifies that he/she will not engage in the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or drug during the performance of the contract and that a drug-free workplace will be provided for the Contractor's employees or agents during the performance of the contract. The Contractor also certifies that he will secure from any subcontractor who works on the contract, written certification of the same drug free workplace requirements. False certification or violation by failing to carry out requirements of O.C.G.A. § 50-24-3 may cause suspension, termination of contract, or debarment of such bidder

Please Note: If any employee or agent of the Contractor or Sub-contractor is found to have brought a firearm on District property, the Contractor or Sub-contractor shall prohibit them from continuing to perform any work on District property. If the Contractor or Sub-contractor fails to do so, then the District may terminate this Agreement for cause as set forth below.

**23. Occupational Safety and Health Acts.** Contractor(s) who perform any work under this contract shall fully comply with the provisions of the Federal Occupational Safety and Health Act of 1970 and any amendments thereto and regulations pursuant to the act. Any Contractor who fails to do so may be terminated for cause as set forth below.

**24. Record Retention, Access, and Audit Clause.** The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the District's School Nutrition Program throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records.

The Contractor shall permit any Auditor from the District, or any the Auditor of the State of Georgia or any authorized representative of the School Food Authority, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such records may be located during normal business hours. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the State and/or the District reserves the right to charge the Contractor for the cost of the audit and to require the Contractor to correct the incorrect billings or improprieties, including repaying the District an appropriate reimbursement for incorrect billings resulting in overcharges to the District. Evidence of criminal conduct will be turned over to the proper authorities. The District may also offset/recoup amounts owed by the Contractor to the District for incorrect billings or other improprieties discovered in an audit against amounts owed by the District to the Contractor for goods and/services provided by Contractor. The District may withhold making payments to a Contractor pending resolution of an audit if the District has a good faith reason to believe that a billing error or other impropriety has occurred.

**25. Proprietary Information:** It is understood and acknowledged that the District may provide to Contractor information which is proprietary, confidential, and/or trade secret including, but not limited to proprietary, confidential, and/or trade secret information of District students, teachers, staff, or other vendors doing business with the District. Contractor agrees to maintain the confidentiality of such information propriety, confidential, and trade secret information during the term of this Agreement and following the termination of this Agreement for so long as such information remains proprietary, confidential, and/or trade secret to the extent that it does not violate the Georgia Open Records Act or any other federal, state, or local laws. All materials containing such proprietary, confidential, and trade secret information shall be returned to the District at the Termination of this Agreement. The Contractor further agrees to handle any student information in compliance with the Federal Education Rights and Privacy Act, commonly known as "FERPA," codified at 20 U.S.C. § 1232g.

**26. Insurance:** The Contractor shall procure and maintain throughout the term of this Agreement the following insurance limits and coverage and shall, upon executing this Agreement, provide the District a certificate(s) of insurance evidencing the same, showing that the "Board of

Public Education for the City of Savannah and the County of Chatham, the body corporate responsible for public education in the City of Savannah and the County of Chatham commonly known as the Savannah Chatham County Public School System ("SCCPSS") and all of its elected school board members, administrators, officers, employees, agents, attorneys, heirs, successors, and assigns," are listed as additional named insureds on all insurance policies except for Contractor's workers' compensation and professional liability policies. The policies of insurance shall be primary and written on forms acceptable to the Board and placed with insurance carriers approved and licensed by the Insurance Department in the State of Georgia and meet minimum financial A.M. Best & Company rating of no less than A:8. Further the contractor will provide copies of all insurance policies required thereunder. No changes are to be made to these specifications without prior written specific approval by the Board.

**A. Commercial General Liability Insurance**, including Bodily Injury, Property Damage, Personal Injury, Blanket Contractual and Broad Form Property Damage Coverage including Products and Completed Operations, and XCU exposure with combined single limits of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

**B. Commercial Automobile Liability Insurance**, including owned, non-owned, leased and hired motor vehicle coverage with limits not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

**C. Worker's Compensation Insurance** Statutory limits in accordance with O.C.G.A.34-9-120 et. seq

**D. Umbrella Insurance** with a limit of not less than \$1,000,000 per claim, \$1,000,000 aggregate.

**27. Indemnification:** The Contractor, as well as its successors and assigns, shall indemnify, hold harmless, insure, and defend, the District and all of its elected school board members, administrators, officers, employees, agents, attorneys, successors, heirs, and assigns, (collectively the "Indemnitees") from and against any liability or claims for any damages, losses, or expenses for personal injury (including death) or property damage, including attorney's fees and expenses of litigation, to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of Contractor or other persons employed or utilized by the Contractor in the performance of this Agreement. It is not the intent of this provision to require Contractor to indemnify, hold harmless, insure, and defend Indemnitees from and against any liability or claims damages, losses, or expenses for personal injury (including death) or property damage, including attorney's fees and expenses of litigation, caused solely by or resulting solely from the negligence, recklessness, or intentionally wrongful conduct of the Indemnitees.

The parties do not intend for this indemnity provision to limit either party's remedies against the other for breach of contract, and this provision does not intend for this indemnification provision to require the Contractor to indemnify the District for claims for attorney's fees and expenses of litigation asserted by the District against the Contractor for the Contractor's alleged breach or default under the terms of this Contract, unless the Contractor is determined by a court of competent jurisdiction to be liable to the District and the District's recovery of attorney's fees and litigation expenses is otherwise permitted by applicable law.

**28. Indemnification for Suits or Claims for Intellectual Property Infringement.** The Contractor shall indemnify and hold the Owner harmless from any suits or claims of infringement of any patent rights, trademarks or copyrights arising out of any patented, trademarked, or copyrighted materials, methods, or systems used by the Contractor.



**29. Warranty.** A standard manufacturer warranty shall apply to all goods, equipment, parts, and supplies provided under this Agreement. The Contractor will guarantee that all labor, products provided are free of material defects and/or workmanship for a minimum period of twelve (12) months from the date of acceptance. Any extended warranties offered after the standard manufacturer's warranty shall be stated in bid submittal and any cost associated therewith shall be clearly stated in the bid documents.

If, during the warranty and/or extended warranty period, such faults develop, the Contractor agrees to immediately replace the unit or the part affected without any additional cost to the District. All equipment provided will be "new". Factory seconds, discontinued, re-manufactured, re-built, used and or surplus equipment will not be accepted. The contractor must provide a copy of the manufacturer warranty to the District upon delivery, installation, and acceptance of the commodity or service.

**30. Breach of Contract and Cure:** If either party breaches any of the covenants, promises, agreements, representations, and warranties provided by this Agreement, then the non-breaching party shall provide written notice of the breach to the address provided below for written notices under this Agreement by hand-delivery, U.S. Mail, commercial delivery service, such as Fed Ex or UPS, or fax, identifying the nature of the breach and providing the breaching party with ten (10) days from the delivery of the written notice to cure the breach. If the breaching party fails to cure the breach within ten (10) days of the delivery of the written notice of the breach, then the non-breaching party may terminate this contract for cause as set forth below and pursue any and all remedies for the breach available at law.

If the District notifies Contractor that it is in breach of this Agreement, then the District may withhold all future payments to Contractor until any dispute regarding the breach of contract is resolved by the mutual, written agreement of the parties or by the entry of a final judgment by a court of law of competent subject matter jurisdiction and the resolution of any possible appeals from any such judgment. If the District withholds any payments to Contractor pursuant to this paragraph, then the District shall not be required to pay Contractor any amounts ultimately determined to be owed by the District to Contractor under this Agreement until any breach of contract dispute is resolved by the mutual, written agreement of the parties or by the entry of a final judgment by a court of law of competent subject matter jurisdiction and the resolution of any possible appeals from such judgment. Contractor further agrees that it may not charge interest on any payments withheld by the District pursuant to this paragraph until the breach of contract is resolved by the mutual, written agreement of the parties or by the entry of a final judgment by a court of law of competent subject matter jurisdiction and the resolution of any possible appeals from such judgment

**31. Automatic Termination Upon the Conclusion of the Term of this Agreement:** Unless extended by the mutual written consent of the parties, this Agreement will terminate automatically upon the expiration of the Agreement at the end of the Agreement's Term as set forth in Section 4 above. Following the termination of this Agreement under this Section, the Parties' duties to one another shall cease except for those obligations that shall survive the termination of this Agreement, including, but not limited to, the District's payment obligations for goods and/or services accepted by the District before the date of termination and the Contractor's duties to insure and/or indemnify the District and to cooperate with any audit. Automatic termination of this Agreement pursuant to this Section shall not limit either of the parties' remedies for any breach of this Agreement.

**32. Termination for Convenience by The District:** The District may terminate this Agreement for convenience, for any reason or no reason at all, on fourteen (14) days advance written notice to Contractor. This advance written notice shall be deemed to have been given on the date the notice is sent by the District to the address for written notices provided below by hand delivery, U.S. Mail, commercial delivery service, such as Fed Ex or UPS, or fax. If this Agreement is so terminated, then the District shall only pay Contractor for goods and/or services provided by Contractor and accepted by the District up to, through, and including the date of termination. Following the termination of this Agreement under this Section, the parties' duties to one another shall cease except for those obligations that shall survive the termination of this Agreement, including, but not limited to, the District's payment obligations for goods and/or services accepted by the District before the date of termination, and the Contractor's duties to insure and/or indemnify the District and to cooperate with any audit. Termination of this Agreement pursuant to this Section shall not limit either of the parties' remedies for any breach of this Agreement.

**33. Fiscal Funding.** Notwithstanding any other provision of this agreement, the parties hereto agree that the charges hereunder are payable to the Contractor by the District solely from appropriations received by District. In the event such appropriations are determined by the Chief Financial Officer/Comptroller of the District to no longer exist or to be insufficient with respect to the charges payable hereunder, this Agreement shall immediately terminate without further obligation to the District upon notice that such appropriations no longer exist and are insufficient.

If this Agreement is so terminated, then the District shall only pay Contractor for goods and/or services provided by Contractor and accepted by the District up to, through, and including the date of termination. Following the termination of this Agreement under this Section, the parties' duties to one another shall cease except for those obligations that shall survive the termination of this Agreement, including, but not limited to, the District's payment obligations for goods and/or services accepted by the District before the date of termination, and the Contractor's duties to insure and/or indemnify the District and to cooperate with any audit. Termination of this Agreement pursuant to this Section shall not limit either of the parties' remedies for any breach of this Agreement.

**34. Termination for Cause by The District:** The District may immediately terminate this Agreement for cause for any of the following reasons:

**A.** Contractor has breached the terms of this Agreement and has failed to cure the default within ten (10) days of the delivery of the written notice of default as provided in this Agreement;

**B.** Contractor, or any of its directors, officers, employees, agents, subcontractors, or any other persons employed or utilized by the Contractor in the performance of this Agreement, have engaged in or expressed an intent to engage in conduct that the District considers to pose an undue risk of causing personal injury to any person or property damage to any property;

**C.** Contractor, or any of its directors, officers, employees, agents, subcontractors, or any other persons employed or utilized by the Contractor in the performance of this Agreement, is charged with a federal, state, or local crime (even if the allegations are ultimately proven to be untrue) or is convicted of a federal, state, or local crime, other than a misdemeanor traffic violation;

**D.** Contractor, or any of its directors, officers, employees, agents, subcontractors, or any other persons employed or utilized by the Contractor in the performance of this

Agreement, is alleged to have committed professional malpractice or violated any professional code of conduct applicable to Contractor (even if the allegations are ultimately proven to be untrue) or has been determined by a court of law, professional association, or government agency, to have committed professional malpractice or violated a professional code of conduct applicable to Contractor; or

**E.** Contractor, or any of its directors, officers, employees, agents, subcontractors, or any other persons employed or utilized by the Contractor in the performance of this Agreement, is alleged to have engaged in the sexual harassment or sexual abuse of any person or alleged to have violated any federal, state, or local employment laws (even if such allegations are ultimately proven to be untrue) or is determined by a court of law or government agency to have actually engaged in sexual harassment or sexual abuse or to have actually violated a federal, state, or local employment law. For the purposes of this Agreement, sexual harassment shall be defined as: “Unwelcome sexual advances, requests for sexual favors, and all other verbal or physical conduct of a sexual or otherwise offensive nature, especially when 1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; 2) submission to or rejection of such conduct is used as the basis for decisions affecting an individual’s employment; or 3) such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.”

Termination for cause shall be effective immediately on the date the District sends a written notice of termination for cause to Contractor by hand delivery, U.S. Mail, commercial delivery service, such as Fed Ex or UPS, fax, or email to Contractor to the address for written notices provided below.

If this Agreement is terminated for cause pursuant to this Section, then the District shall pay Contractor for goods and/or services provided by Contractor and accepted by the District up to, through, and including the date of termination, unless the District indicates its intent to withhold payment to the Contractor because the District contends that the Contractor owes the District money under this Agreement or for any other reason.

Following the termination of this Agreement under this Section, the parties’ duties to one another shall cease except for those obligations that shall survive the termination of this Agreement, including, but not limited to, the District’s payment obligations for goods and/or services accepted by the District before termination and the Contractor’s duties to indemnify the District and to cooperate with any audit. Termination of this Agreement pursuant to this Section shall not limit either of the parties’ remedies for any breach of this Agreement.

**35. Effect of Later Determination.** In the event the parties agree or a court of competent jurisdiction determines (or the parties agree to settle with a consent determination) that a default is wrongful or not the fault of the Contractor, the termination shall be considered to be a Termination for Convenience and the sole remedy available to the Contractor shall be the contractual treatment of the termination as termination for convenience pursuant to Section 32.0 above and without any other damages or relief.

**36. Transfer of Project Records Following Termination:** Following the termination of this Agreement for any reason, Contractor, without additional compensation, will provide any and all records relating to the goods and/or services provided by Contractor pursuant to this Agreement to the District and any other vendors that the District may engage to provide the same or similar goods and/or services in the future. Without additional compensation, Contractor shall in good faith cooperate with the District and any other vendors that the District may engage to ensure a

smooth transition from Contractor to another vendor and to minimize any disruption in the provision of goods and/or services provided by Contractor to the District.

**37. Survival of Obligations after Termination:** Upon the termination of this Agreement for any reason, the Parties' duties to one another under this Agreement will cease except to the extent that this Agreement, Georgia law, or Federal law expressly provides that one party has an obligation to the other that shall continue beyond the termination of this Agreement. The Parties agree that the following obligations shall survive the termination of this Agreement: Any express or implied warranties provided by Contractor with respect to the goods and/or services provided under this Agreement; Contractor's duties to keep proprietary, confidential, and trade-secret information proprietary, confidential, and trade-secret; Contractor's duties to retain records related to its performance of this Agreement for a period of six (6) years post termination; Contractor's duties to assist the District in answering any open records acts requests; Contractor's duties to provide and/or make available its records related to its performance of this Agreement to the District or any other party that The District directs Contractor to provide records to, including, but not limited to, the District's auditors; Contractor's duties to help transition the provision of the goods and/or services provided by Contractor to another vendor hired by the District to provide the same or similar goods and/or services; Contractor's duties to provide supporting documentation to invoices; Contractor's duties to repay the District for any improper charges or overcharges discovered by the District and/or its auditors; Contractor's duties to maintain the types of insurance provided by this Agreement and maintain the District and all of its boards, departments, and political subdivisions as well as all of their respective Commissioners, directors, officers, employees, agents, and attorneys, heirs, successors, and assigns, as additional named insureds on such policies; Contractor's duties to indemnify the District and the other Indemnitees identified in this Agreement; Contractor's duties to cure any breach of this Agreement and to remedy any breach of this Agreement; the District's duties to pay Contractor for goods and/or services actually provided by Contractor and properly documented and invoiced as required by this Agreement up to, through, and including the date of termination; and, the District's duty to cure any breach of its duties to Contractor under this Agreement and to remedy any breach of this Agreement.

**38. Assignability:** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same, whether by assignment or novation, without the prior written consent of the District.

**39. Entirety of the Agreement:** The terms and conditions of this Agreement and any of the attachments expressly incorporated by reference in this Agreement embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of the Agreement shall be valid unless made in a writing signed by both parties hereto and approved by the District's governing body, the elected School Board, or its designee pursuant to official board policy. Contractor acknowledges, that pursuant to the doctrine of sovereign immunity, any purported oral modification to this Agreement is unenforceable.

Each party acknowledges participation in the negotiations and drafting of this Agreement and any modifications thereto, and that, accordingly, this Agreement will not be construed more stringently against one party than against the other. Contractor acknowledges, that pursuant to the doctrine of sovereign immunity, purported oral modifications are unenforceable against the District.

**40. Waiver:** Any failure by the District to require strict compliance with any provision of this contract shall not be constructed as a waiver of such provision, and the District may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

**41. Governing Law:** This Agreement shall be deemed to be governed by and construed in accordance with the laws of the State of Georgia, with the exception of any of Georgia's choice-of-law rules that might result in the application of the law of another forum.

**42. Compliance with Laws.** Contractor agrees to comply with all applicable State and Federal laws and regulations, including, but not limited to, all state laws and regulations governing contracts with public school districts. In this regard, Contractor certifies its compliance with Federal and State immigration laws. Contractor warrants that it has registered with and uses the federal work authorization program commonly known as "E-Verify." Contractor further agrees that it will execute any affidavits required by O.C.G.A. §13-10-91 and/or O.C.G.A. § 50-36-1. Contractor further warrants that it will not enter into any contract with a subcontractor or subcontractor that does not participate in a federal work authorization program. Contractor will require all subcontractors or subcontractors to provide Contractor with O.C.G.A. § 13-10-91 affidavits similar to the ones provided by Contractor to Owner as required by O.C.G.A. § 13-10-91 (b) (3) & (4).

**43. Severability.** All of the provisions of this Agreement are separate and severable. If any provisions of this Agreement are held to be contrary to law or public policy or otherwise invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the other portions hereof.

**44. Forum Selection, Jurisdiction, and Venue:** The parties agree that any lawsuit filed by either party to this Agreement related to or arising out of this Agreement or Contractor's performance of work under this Agreement must be brought in a Georgia court of competent subject matter jurisdiction located in Chatham County, Georgia, or in a Federal court of competent subject matter jurisdiction located in the Southern District of Georgia. Contractor agrees to submit to the personal jurisdiction of any such court and agrees that any such court shall be a proper venue for any lawsuit related to or arising out of this Agreement or Contractor's performance of work under this Agreement. Contractor agrees to waive in advance any defenses of lack of personal jurisdiction or improper venue in any such court.

**45. Limitation on the Scope of Services:** Contractor understands and agrees that the Scope of Services described in Section 2 of this Agreement and any attachments incorporated by reference is not a guarantee of a minimum amount of payment or profit or a guarantee of a specific amount of work to be performed by Contractor under this Agreement. The District, at its option, may elect to expand, reduce or delete the extent of each work element described in the Scope of Services and may terminate this Agreement early as provided above.

**46. Approval of the District's Governing Body, the Elected School Board, or its Designee:** Contractor agrees that no contract or claimed modification to a contract is enforceable against the District without the approval of the District's governing body, the elected School Board, or the elected School Board's designee by a formal policy of the elected School Board. The signature of the President of the elected School Board, the Superintendent, the Chief Financial Officer, or any other person purporting to act on behalf of the District is only binding on the District if that person's execution of this Agreement or a subsequent written modification of this Agreement has been authorized by the School Board and/or Board Policy. If it is subsequently determined that this Agreement or any claimed written modification to this Agreement was signed without proper authority from the District's governing body, the elected School Board, then the

Contractor agrees that this Agreement or any claimed written modification of this Agreement shall be void and not constitute a binding contract or written modification on the District. Contractor agrees that it may have to repay any and all sums it may receive from the District pursuant to any alleged contract or alleged written modification of a contract that was not properly authorized by the District's School Board.

**47. Piggyback Clause.** Other State and Local Government Agencies within the State of Georgia may buy off this Agreement at the same prices listed in Schedule A during the performance period, pending agreement between the Contractor and the third party entity.

**48. Written Notices:** Written notices required under this agreement should be made to the parties at the following mailing addresses, email addresses, or fax numbers:

**Notices to The District:**

**The Savannah Chatham County  
Public School System  
ATTN: Purchasing  
208 Bull St., Room 213  
Phone: (912) 395-5572  
Fax: (912) 201-7648  
Email: purchasing@sccpss.com**

**Notices to Contractor:**

**[Contractor's Name]  
ATTN: [Contractor's Primary Contact]  
[Contractor's Street Address]  
[Contractor's City, State, Zip]  
Email: [Contractor's Email]  
Phone: [Contractor's phone]  
Fax : [Contractor's Fax]**

**49. Interpretation in Connection with Solicitation.** This Agreement and the attached exhibits control over any inconsistent provisions set forth in the solicitation giving rise to this Agreement **BID 22-26 School Nutrition Program – Large Kitchen Equipment**, or any response by Contractor. To the extent this Agreement the attached exhibits are silent on a topic, the provisions in District's solicitation **BID 22-26 School Nutrition Program – Large Kitchen Equipment**, as amended by any addenda released by the District, shall control.

**50. Attachments:** If attachments are included in this Agreement and in the event of any inconsistency between the attachments and the terms of this Agreement, the inconsistency will be resolved by giving preference in the following order: 1) this Agreement, 2) any attachments prepared or provided by the District, 3) any attachments prepared or provided by Contractor, and 4) any attachments prepared by a third party. The following documents are attached to and hereby incorporated by this express reference as part of this agreement:

**Attachment A:** Scope of Services

**Attachment B:** Price and Payment Information

**51. Execution in Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. It shall not be necessary that any single counterpart hereof be executed by all parties hereto so long as at least one counterpart is executed by each party.

**52. COVID-19 Safety Precautions.** The District expects the Contractor, its subcontractors, and their employees to comply with all of the District's COVID-19 Safety Procedures and Policies, including, but not limited to mask requirements, temperature taking and symptom tests, and social distancing practices, as may be implemented by the District from time to time, with the exclusion of those policies related to how District employees report COVID-19 concerns to the Risk Management and Human Resources departments. Copies of the District's current COVID-19

Procedures and Policies are attached and may be revised in the future as COVID-19 conditions changes.

**IN WITNESS WHEREOF**, this Agreement is accepted on the date signed on behalf of the District, subject to the terms and conditions above stated and the provisions set forth herein.

**[Insert Name of Contractor]**

**The Board of Public Education for the City of Savannah and the County of Chatham**

SIGNED:

SIGNED:

\_\_\_\_\_  
BY: [Name]  
ITS: [Title]

\_\_\_\_\_  
BY: [Name]  
ITS: [Title]

DATE: \_\_\_\_\_, 20\_\_

DATE: \_\_\_\_\_, 20\_\_

SAMPLE

## **Attachment A: Scope of Services**

### **1.0 SCOPE OF WORK.**

Contractor shall provide, deliver, and install Large Kitchen Equipment to SCCPSS School Nutrition Program sites as indicated on purchase orders issued by the District.

### **2.0 CONTRACTOR QUALIFICATIONS.**

2.1 The contractor shall be factory-authorized to provide and connect the proper size and quantity of mechanical and utility connections needed for each piece of equipment meeting factory recommendations and installation instructions. The installation shall also include the specified water filter assembly where applicable. All state and local codes must be met and all permits and inspections must be obtained by contractor.

#### **2.2 Installation:**

2.2.1 The contractor shall deliver the new equipment to the site at the designated date and time based on the agreed upon schedule.

2.2.2 The contractor shall uncrate and set up the equipment in the designated space. Equipment shall be completely installed by the contractor's personnel so that the entire installation is warranted. Installer shall have all proper licenses for such work, electrical licenses for electrical work and plumbing licenses for water connections. Contractor will also be responsible for boiler permits where applicable.

2.2.3 The contractor shall ensure that complete and final connections of equipment are performed by qualified personnel authorized by the manufacturer in order to maintain the integrity of equipment warranty. A start-up and check-out of each new piece of equipment shall be performed by an authorized factory representative in the presence of an SCCPSS representative prior to acceptance by SCCPSS.

#### **2.3 Quality Assurance:**

2.3.1 The contractor shall comply with the National Sanitation Foundation Standards (NSF) and recommended criteria by providing each principal item of food service equipment with a "Seal of Approval" by NSF.

2.3.2 The contractor shall comply with the Underwriters Laboratory (UL) labels: Where applicable, the contractor shall provide UL labels on each item of food service equipment with prime electrical components and provide UL "recognized markings" on other items with electrical components, signifying listing by UL, where available.

2.3.3 The contractor shall comply with the American Gas Association (A.G.A.) Standards: All gas-fired equipment shall comply with requirements of A.G.A. and shall bear its seal of approval.

2.3.4 The contractor shall comply with the American Society of Mechanical Engineers (A.S.M.E.) Standards: All pressure steam vessels (i.e. boilers, kettles, etc.) shall comply with A.S.M.E. standards and bear its seal of approval. In addition, they shall also comply with any and all requirements of the State Boiler Inspector including permits and inspections.



2.3.5 The contractor shall comply with the Fabricator/Installer: Custom fabrication equipment shall be fabricated and installed by shops that are skilled and have a minimum of five (5) years' experience in this work. Fabricator shall have the proper NSF certification and installer shall have all proper licenses for such work.

2.3.6 In addition to complying with applicable codes for the construction of equipment; equipment installation must also comply with state and local codes and health department rules and regulations.

2.3.7 A qualified representative of the contractor or installing contractor shall supervise the installation and start-up of the equipment, instruct and train the kitchen staff in the operation of the equipment, and perform such tests as required by SCCPSS to demonstrate that the equipment complies with the specifications.

2.3.8 The contractor shall provide a minimum of one (1) hour training performed by an authorized Chef representative for each piece of equipment installed.

SAMPLE

**Attachment B: Price and Payment Information**

<b>Item #</b>	<b>Description</b>	<b>Estimated Annual Quantity</b>	<b>Specified Model</b>	<b>Unit Price</b>	<b>Extended Cost</b>
1	TILTING SKILLET, 40-GALLON, ELECTRIC	2			
2	FOOD SLICER, ELECTRIC	5			
3	FOOD PROCESSOR, COUNTERTOP	5			
4	MIXER, VERTICAL CUTTER	2			
5	RETHEMALIZATION HEAT AND HOLD OVEN	8			
6	COMBI OVEN, ELECTRIC	5			
7	CONVECTION STEAMER, ELECTRIC, BOILERLESS	6			
8	REFRIGERATED MERCHANDISER	4			

<b>Item #</b>	<b>Description</b>	<b>Estimated Annual Quantity</b>	<b>Specified Model</b>	<b>Unit Price</b>	<b>Extended Cost</b>
9	MILK COOLER	6			
10	REACH IN REFRIGERATOR	6			
11	REACH IN FREEZER	2			
12	ICE MACHINE	5			
13	HOT FOOD SERVING COUNTER, ELECTRIC	2			
14	COLD FOOD SERVING COUNTER, ELECTRIC	2			
15	CONVECTION OVEN, DOUBLE STACK, ELECTRIC	8			
16	CASHIER STATION	2			

Item #	Description	Estimated Annual Quantity	Specified Model	Unit Price	Extended Cost
17	PASS-THRU REFRIGERATOR	8			
18	PASS-THRU HEATED HOLDING CABINET	8			

Delivery can be made within \_\_\_\_\_ days after receipt of an authorized Purchase Order

Pricing includes installation as outlined in Attachment A, Section 2.2

SAMPLE