



The Board of Public Education  
208 Bull Street, Savannah, Georgia, 31401 912/201-5600

Ladies and Gentlemen:

The Savannah-Chatham County Public Schools take this opportunity to announce that we are requesting bids for **Commodity Processing Tomato Products**. All bids should be delivered to the Savannah-Chatham County Public Schools Purchasing Department, 208 Bull Street, Room 213, Savannah, Georgia, 31401. Bids will be accepted prior to **05/21/2013 11:00:00 AM** at which time they will be publicly opened and examined. If you are unable to submit a bid response at this time, and wish to remain on our list of potential suppliers, complete and return the Certification and Local and/or Minority/Women Business Enterprise Development Information (LMWBE) document found in this packet marked "No Bid". All bids will be evaluated as described in the attached document. Time is of the essence and any bids received after the announced time and date for submittal whether by mail or otherwise, will be rejected. The time of receipt shall be determined by the time clock stamp in the Purchasing Department. Bidders are responsible for ensuring that their bids are stamped by Purchasing Department personnel before the deadline indicated. **Late bids received will be so noted in the bid file in order that the vendor's name will not be removed from the subject commodity/service list. Late bids will not be considered.**

Enclosed is a bid packet, which outlines the items being solicited and instructions which describe the submission of the bid.

All bids must be submitted in duplicate in the enclosed special envelope. If bid materials require additional envelopes, then all mailing articles must be combined together with the special envelope on top. If you wish to receive a copy of the bid results, enclose a self-addressed stamped envelope and a bid tabulation will be returned to you.

Please include in the bid package a copy of the current business license if the prospective vendor is located within the City of Savannah of the County of Chatham.

If you have any questions concerning this bid, please submit them in writing to R. D. Roper at the address above or fax them to 912-201-7648. In addition, all communication relating to this bid solicitation, either before or after the bid opens, must be coordinated through the Purchasing Department. Your interest and participation in submitting a bid will be appreciated.

Sincerely,

Sabrina Scales  
Purchasing Director

## INVITATION TO BID #ITB 13-76

The Board of Public Education for the City of Savannah and the County of Chatham (hereinafter referred to as "the Board") is soliciting sealed bids for **Commodity Processing Tomato Products** as specified in this Invitation to Bid (ITB). The successful bidder(s) (hereinafter referred to as "the bidder") shall meet the terms and conditions set forth in this document and all attachments.

### I. Standard Terms and Conditions of Bid

#### A. Pricing

No charge will be allowed for those federal, state or local sales and excise taxes where the Board is exempt by state and Federal law. A tax exemption certificate will be furnished by the Board to the successful bidder upon request.

The Board will factor any rebates offered for total dollar volume or quantities ordered over the performance period of this contract in the award of this bid.

NOTE: Although pricing will weigh heavily in the award of this contract, bidders will have to meet lead time, service and quality criteria to be considered a "responsible" bidder who is eligible for award. In the event the bidder wishes to provide items specified(s) above and beyond the stated requirements of this bid at "no cost" to the Board, these services should be identified and included in the bid response.

#### B. Shipping, Delivery, Terms of Payment & Invoicing

The Board requires orders to be shipped F.O.B. destination to the designated site. Since the successful bidder(s) will be responsible for all freight expenses, the selection of carrier shall be determined by the bidder.

Bidders shall guarantee delivery of supplies in accordance with such delivery schedule as may be provided in the specifications.

The Board's Purchasing Director reserves the right to charge the vendor for each day the supplies or services are not delivered in accordance with the delivery schedule. The per diem charge may be invoked at the discretion of the Board's Purchasing Director and said sum to be taken as liquidated damages and deducted from the final payment, or charged back to the vendor.

Title and risk of loss to the items shall remain with the bidder until the items in a completed state have been delivered to and accepted by the Board.

The successful bidder agrees to reference the following on all shipping documents and invoices:

- 1.) Purchase Order Number
- 2.) Serial Number (as applicable)
- 3.) Part Number/Description/Nomenclature
- 4.) Quantity Ordered
- 5.) Quantity Shipped
- 6.) Site Destination

Failure to ship order in its entirety will prevent payment of your invoices. **Per Board policy, backorders will not be accepted.** Accordingly, successful bidder(s) should not invoice until one shipment has been made for all items on order.

All invoices should be mailed to:

Savannah-Chatham Co. Board of Public Education  
Attn.: ACCOUNTS PAYABLE  
208 Bull Street, Room 119  
Savannah, GA 31401

Terms of payment will be 2% 10th Net 40 Days.

***C. General Specifications/Scope of Work***

**Specifications/Scope of Work** for **items/services** to be purchased are detailed in the attached **Specifications Sheet/Scope of Work** "Attachment A" following Section III.

When reference is made in the bid specifications to manufacturer or brand name, such references are made solely to designate minimum acceptable levels of quality and do not indicate a preference.

In the event a bidder is offering another manufacturer and/or model number other than stated in the specification, the bidder must provide complete technical information, specifications, manufacturer's name, model number and a complete list of deviations from stated specifications. The burden of proof for documenting equality rests with the bidder. All determinations of the acceptability of an equal or alternate material or equipment shall rest with the Board staff and their decision shall be final.

Bids on equipment must be on standard, new equipment of the latest model and in current production, unless otherwise specified. Used, reconditioned or refurbished equipment is not acceptable unless otherwise specified.

All regularly manufactured stock electrical items must bear the label of the Underwriters Laboratories, Inc.

Any obvious error or omission in specifications shall not inure to the benefit of the bidder but shall put the bidder on notice to inquire of or identify the same from the Board.

***D. Discontinuation of Equipment***

In the event items requested are discontinued by the manufacturer, bidder shall substitute an equivalent replacement item from the same manufacturer at equal or lower pricing. Bidder shall advise of any anticipated discontinuations. Proposed replacement equipment must be submitted for review and approval prior to completion of any substitution.

***E. Submittal of Objections***

Objections from bidders to this Invitation to Bid and/or these specifications should be brought to the attention of the Board, Director of Purchasing. The bidder shall submit any objections in writing not less than (5) days prior to the opening of the bid. The objections contemplated may pertain to form and/or substance of the ITB documents and specifications. Failure to object in accordance with this procedure will constitute a waiver on the part of the bidder to protest this Invitation to Bid.

***F. ITB Interpretations/Addenda***

If any questions should arise pertaining to the ITB documents, the bidder may mail or fax a written request for interpretation to:

Savannah-Chatham Board of Public Education

Attn.: R. D. Roper  
Lead Buyer  
208 Bull Street, Room 213  
Savannah, GA 31401  
Fax No.: (912) 201-7648

Any interpretation of documents shall be made by addendum to the ITB. Copy of such addenda will mailed or faxed to each bidder receiving a set of documents. All requests for interpretation must be submitted on or before the close of business, 04/29/2013 02:00:00 PM. The Board shall not be responsible for any other explanation of questions submitted after this date. The Board shall mail, fax, or contact bidder for pickup of any addenda prior to the **close of business on 05/06/2013 05:00:00 PM.**

Any addenda issued during the time of the ITB shall be covered in submitted bids, and in closing the contract shall become a part thereof.

#### ***G. Failure to Bid***

If a bid is not to be submitted but the bidder wishes to remain on the Board's list of bidders, the bidder should complete and return the Certification and LMWBE Information document found in this packet marked "No Bid".

#### ***H. Errors in Bids***

Bidders or their authorized representatives are expected to fully inform themselves as to conditions, requirements, and specifications before submitting bid proposals. Failure to do so will be at the bidder's own risk. The bidder may withdraw a bid prior to the bid opening date and time by requesting to do so in writing.

#### ***I. Standards of Acceptance of Bid Proposal for Contract Award***

The Board reserves the right to reject any and all bids and to waive any irregularities or technicalities in proposals received whenever such rejection or waiver is in the best interest of the Board. The Board has the right to disqualify a bid of any bidder as being unresponsive when such bidder cannot document its ability to deliver requested services or when investigation show it is not in a position to perform the contract.

#### ***J. Compliance With Laws***

The bidder shall obtain and maintain all licenses, permits, liability insurance, workman's compensation insurance and comply with any and all other standards or regulations required by Federal, State, or County statutes, ordinances and rules during the performance of any contract between the Board and the bidder. Any such requirement specifically set forth in any contract document between the bidder and the Board shall be supplementary to this section and not in substitution thereof.

#### ***K. Indemnity Provisions***

Where bidder is required to enter or go onto property to provide services or gather information, the bidder shall be liable for any injury (including death), damage or loss occasioned by negligence of the bidder, his agent, or any person the bidder has designated to visit Board property and shall indemnify and hold harmless the Board, its officers, employees, agents and volunteers from any liability arising therefrom. Offerors should not include an indemnity or hold harmless agreement from the Board in any proposal. The Board will not be bound by any such agreement. Board Policy DJE provides in part: No contract, provision, agreement or term of any procurement, contract or agreement with the Board shall obligate the

Board or System to indemnify, save or hold harmless any vendor for any future claim, loss, expense or liability.

***L. Cancellation/Default of Contract***

In the event the successful bidder, through any cause, should fail to fulfill the agreed upon obligations in an effective and timely manner, the Board shall have the right to terminate its contract by specifying the date of termination in a written notice to the selected vendor at least thirty (30) days before that termination date. The Board also reserves the right to procure the articles or services from other sources and hold the defaulting vendor responsible for any excess cost incurred.

***M. Certification of Independent Price Determination***

By submission of this bid, the bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that in connection with this Invitation to Bid:

1. The pricing structure in this bid proposal has been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any bidder or with any competitor;
2. The pricing structure which has been quoted in this bid proposal has not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.

***N. Local and/or Minority/Women Business Enterprise (LMWBE)***

It is Board policy to improve opportunities for Local and/or Minority/Women Business enterprises (LMWBE) to participate competitively in bids/proposals for materials and supplies, and professional services.

All bidders must read and complete all documents included in Attachment "C" with all pertinent Exhibits.

***O. "Responsive" Bidder Criteria***

- \* Availability of Products/ Services
- \* Warranties/Guarantees
- \* Ability to Meet Equipment Specifications/Bid Conditions
- \* Documented Quality of Product and Manufacturer
- \* Service and Support Capability

***P. Qualification of Bidder***

A responsible bidder or proposer is defined as one who meets, or by the date of the bid acceptance can meet, all requirements for licensing, insurance, and service contained within this Invitation to Bid. The Board has the right to require any or all bidders to submit documentation of the ability to perform, provide, or carry out the service requested.

***Q. Bid Clarification***

The Board reserves the right to request clarification of information submitted and to request additional

information from any and all bidders.

***R. Compliance with Specification/Terms and Conditions***

The Invitation to Bid, Legal Advertisement, General Terms and Conditions, Bid Submittal Instructions, Special Terms and Conditions, Specifications, Attachments to Bid, Vendor's Bid, Addendum, and/or any other pertinent documents form a part of the bidder's proposal or bid and by reference are made a part hereof.

***S. Award of Contract***

The contract, if awarded, will be awarded to the responsible bidder submitting the lowest pricing structure. Product quality, service issues and other factors stipulated above in Condition "O" must be met to the satisfaction of the Board for a bid to be considered responsive. Moreover, the Board will award the contract to the next most qualified bidder if the selected bidder is unable to execute a contract and provide delivery within the time parameters specified in this ITB.

In the case of a tie, bids shall be awarded on the following criteria:

1. Savannah-Chatham County LMWBE
2. Savannah-Chatham County Vendor
3. Metropolitan Statistical Area Vendor
4. Georgia Vendor

If no vendors meet any of the above criteria, then tie bids will be awarded by means of a coin flip performed by the buyer and witnessed by one other Board employee.

Any contract resulting from the acceptance of a proposal shall contain, at a minimum, all applicable provisions of this Invitation to Bid.

The successful bidder will be notified on the award of this contract by a Notice of Award letter from the Director of Purchasing or his/her designee.

The successful bidder or proposer shall not accept purchase orders under this Invitation to Bid or any amendment hereafter until a written Notice of Award is issued by the Purchasing Director or his designee. If the successful bidder does ship material or provide any services prior to receiving official notification, he does so at his own risk.

***T. Vendor Performance***

The successful bidder(s) will be evaluated by the Board over the duration of the contract period. Performance will be documented. Poor performance may result in the vendor being disqualified on future bids.

***U. Signed Bid Considered Offer***

The signed bid shall be considered an offer on the part of the bidder, and shall be deemed accepted upon approval by the Board. In case of a default on the part of the bidder after such acceptance, the Board may take such action as it deems appropriate, including legal action for damages or lack of required performance.

## **II. Bid Submittal Instructions**

All bids must be prepared in the standard format described below in order to facilitate comparison and evaluation. Failure to follow the format or to address an area adequately may cause the proposal to be deemed unresponsive and therefore, be excluded from consideration. Any proposed deviation from the requested item/scope of services must be noted and fully explained.

### **A. Completion of Certification Form and LMWBE Program Information Form**

1. Complete the attached Certification Form. Include a contact person for this bid with a phone number where that person may be reached. Include this form as the first page of the submittal.

The bidder is also required to provide references, including phone number and a contact person, of at least three firms for whom similar items or services have been supplied.

2. Complete the LMWBE Information Form with pertinent information for minority/women/majority designation.

3. Complete the "Where Did You Hear About This Bid" section. This information is for statistical use only.

4. Complete all pertinent documents within Attachment "C".

### **B. Completion of Bid Submittal Form**

For each item listed on the Bid Submittal Form, include the manufacturer and part number being bid and the unit cost for each item listed.

### **C. Bid Preparation and Submittal**

All bids shall be:

\* Typewritten or legibly printed in ink and signed by an authorized representative, with all erasures or corrections initialed and dated by the official signing the proposal. ALL SIGNATURE SPACES MUST BE SIGNED. Facsimile, printed, copied or typewritten signatures are not acceptable.

\* Submitted in the provided manila envelope, which is plainly marked with the bid number and title, and date and time of bid opening. If proposal materials require additional envelopes, then the proposal package must be combined together with the special envelope on top.

\* Submitted on bid proposal forms as included in this ITB and in accordance with instructions stated above.

\* Mailed or delivered in sufficient time to ensure receipt by the Purchasing Director prior to the Public Bid Opening date and time. Whether sent by mail or by means of personal delivery, the bidder assumes the risk for having the bid deposited on time and at the place specified on the first page of this ITB. Late bids will be returned unopened to the bidder.

\* Bids submitted by facsimile transmission will not be accepted.

\* Considered an irrevocable offer for a period of sixty (60) days from the date of public bid opening.

Bidders are encouraged to review carefully all provisions and attachments of this document prior to

submission. Each bid proposal constitutes an offer and may not be withdrawn except as provided herein.

Bidders shall provide **two (2) copy(s)** of submitted bid proposals containing all pertinent documentation. The Board assumes no responsibility or obligation to respondents and will make no payment for any costs associated with the preparation or submission of the bid proposal.

### ***III. Special Terms and Conditions***

The bidder agrees that the Board shall have the right to place purchase orders referencing ITB 13-76 for quantities of listed items as the Board may require. The projected requirements are subject to increase or decrease contingent upon the availability of state and federal grants and local funding. The Board will award this contract on an "all or nothing" basis or on an item by item basis, whichever in the best interest of the Board.

#### ***A. Pricing***

The bidder shall provide a **unit price for each item** on this ITB which will remain valid throughout the stipulated performance period or until delivery is completed. Price shall include the items as specified. If so stated in the bid specifications, the Board may request an option to renew the contract at the bid prices for a specified time period.

**OR**

The bidder shall provide a **lump sum price totaling all items** on this ITB.

#### ***B. Performance Bonds***

If the specifications so state, the successful contractor may be required to furnish a performance bond equal to the full amount of the contract guaranteeing the faithful performance of such a contract. The performance bond shall be submitted to the Board upon execution of the contract and shall be maintained in full force and effect until the contract has been completed. The cost of the performance bond shall be borne by the successful contractor. The surety company furnishing such a bond shall be authorized to do business in the State of Georgia.

#### ***C. Samples/Demonstrations***

The Board reserves the right to request samples after bids are opened and before the award is made. Samples, when requested must be submitted in accordance with instructions. Samples must be furnished free of charge and if not destroyed during testing will, upon request be returned at the bidder's expense. A request for the return of samples must be made within 10 days following the opening of the bid. A call tag must be furnished and all shipping costs shall be at the bidder's expense. Each individual sample must be labeled with the bidder's name and manufacturer's brand name and part/model number.

The Board, at its discretion, may request a demonstration of offered equipment prior to bid award. This demonstration shall be at the expense of the bidder.

#### ***D. Warranty***

The Bidder shall guarantee the products to be free of defects of material and/or workmanship for a period of at least 12 months from the date of delivery. Any additional warranty offered by the bidder should be so stipulated in the bid documents. If, during the warranty period, such faults develop, the successful bidder agrees to replace the unit or part affected without cost to the Board.



**CERTIFICATION FORM  
BOARD OF PUBLIC EDUCATION**

**FOR THE CITY OF SAVANNAH AND THE COUNTY OF CHATHAM**

**ITB # ITB 13-76**

The undersigned bidder certifies that he/she has carefully read the preceding list of instructions to bidders and all other data applicable hereto and made a part of this Invitation to Bid; and further certifies that the bid proposal submitted is in accordance with all documents contained in this Invitation to Bid package, and that any exception taken thereto may disqualify his/her proposal.

This is to certify that I, the undersigned bidder, have read the instructions to bidder and agree to be bound by the provisions of the same.

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. By \_\_\_\_\_  
*Name (printed)*

\_\_\_\_\_  
*Title Signature*

\_\_\_\_\_  
*Company*

\_\_\_\_\_  
*Address (Street, City, State, Zip)*

\_\_\_\_\_  
*Phone No. Fax No.*

\_\_\_\_\_  
*Federal Taxpayer I.D. No. e-Verify No.*

\_\_\_\_\_  
*Contact Person for This Bid Phone Number*

**REFERENCES OF AT LEAST THREE ORGANIZATIONS SUPPLIED WITH SIMILAR ITEMS:**

1. Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

2. Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

3. Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Acknowledge Receipt of Addendum(s) # \_\_\_\_\_ # \_\_\_\_\_ # \_\_\_\_\_



**Local and/or Minority/Woman Business Enterprise Development Information**

It is the desire of the District to maximize participation of local and disadvantaged business enterprises at all levels in the procurement process. In order to accurately document participation, businesses submitting bids, proposals or Statements of Qualifications are required to report ownership status.

OFFEROR: \_\_\_\_\_ Bid # \_\_\_\_\_

Please check ownership status as applicable:

\_\_\_ Local \_\_\_ Woman

\_\_\_ African American \_\_\_ Hispanic

\_\_\_ Majority \_\_\_ Non-Local

\_\_\_\_\_  
Name, Title Authorized Signature Date

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE \_\_\_ DAY OF \_\_\_\_\_, 201\_\_\_\_

\_\_\_\_\_ Notary Public; My Commission Expires: \_\_\_\_\_

**HOW DID YOU HEAR ABOUT THIS ITB?**

(This information is for statistical use only.)

\_\_\_ City of Savannah, Department of Economic Development \_\_\_ The Herald Legal Ad

\_\_\_ Received Request for Qualifications by Mail \_\_\_ Savannah News Press Legal Ad

\_\_\_ The Savannah Tribune Legal Ad \_\_\_ Visiting the Purchasing Office

\_\_\_ Other \_\_\_\_\_

## Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Savannah-Chatham County Public School System has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_   
 Federal Work Authorization User Identification Number

\_\_\_\_\_   
 Date of Authorization

\_\_\_\_\_   
 Name of Contractor Name of Project

\_\_\_\_\_   
 Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed on \_\_\_\_\_, 201\_   
 in \_\_\_\_\_(city), and \_\_\_\_ (state).

\_\_\_\_\_   
 Signature of Authorized Officer or Agent

\_\_\_\_\_   
 Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME   
 ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_

\_\_\_\_\_   
 NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

## Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with \_\_\_\_\_ on behalf of the Savannah-Chatham County Public School System ("SCCPSS") has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five business days of receipt, a copy of the notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Subcontractor

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, \_\_\_\_, 201\_\_ in \_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

THE PRIME CONTRACTOR OR ARCHITECT MUST GET THIS FORM COMPLETED BY THE  
SUBCONSULTANT/SUPPLIERS

**Sub-subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(4)**

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with \_\_\_\_\_ and \_\_\_\_\_ on behalf of (Savannah-Chatham County Public School Systems ("SCCPSS")) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. § 13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Sub-subcontractor

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, \_\_\_\_, 201\_\_ in \_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

**THE PRIME CONTRACTOR OR ARCHITECT MUST GET THIS FORM COMPLETED BY THE SUB-SUBCONSULTANT/SUPPLIERS**

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**DISCLOSURE OF RESPONSIBILITY STATEMENT**

1. List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
2. List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty which affect the responsibility of the contractor. List any convictions or civil judgments under state or federal antitrust statutes.
3. List any violations of contract provisions such as knowingly (without good cause) to perform, or unsatisfactory performance, in accordance with the specifications of a contract.
4. List any prior suspensions or debarments by any government agency.
5. List any contracts not completed on time.
6. List any penalties imposed for time delays and/or quality of material and workmanship.
7. List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules.
8. List any pending civil actions against company for nonperformance of contract.

I, \_\_\_\_\_,  
Name of Individual Title & Authority

Of \_\_\_\_\_  
Company Name

declare under oath that the above statements, including any supplemental responses attached hereto, are true.

\_\_\_\_\_  
Signature

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_ by representing him/herself to be of the company named herein.

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## ATTACHMENT "A"

### SPECIFICATIONS

ITB #ITB 13-76

#### Commodity Processing Tomato Products

All bid postings on this web site are not intended to be official. This information is provided as a public service. Any information presented here is subject to revisions at any time and is reproduced from official documents of the Purchasing Department. In case of errors and/or omissions you are advised to contact the Purchasing Department for the current status of any bid posting. All bids and RFP's submitted to the Purchasing Department must be clearly marked with the Bid/Proposal name and number on the outside of the document.

#### Specifications

Tomato Paste: 100332 (A 594): 39900 pounds for processing

1. Ketchup: 100% natural ketchup made with sugar. Must meet FDA guidelines for low sodium, No more than 25 mg per package. Pack size 1000/9gm packets.
2. Ketchup: 100% natural ketchup made with sugar, low sodium. No more than 50 mg sodium per Tablespoon. Pack size 6/#10 cans.
3. Salsa: Made of peeled tomatoes, tomato puree, fresh or dried onions, fresh green chili peppers , garlic, and fresh jalapenos properly ripened and wholesome. Sodium should provide not more than 100 mg per serving. Pack size 6/#10 cans. One #10 can yields 106 oz. Meets requirements for Red/Orange Vegetable category requirements for NSLP.
4. Marinara Sauce: Meatless marinara sauce is a ready-to-use, tomato based sauce seasoned with Italian-style herbs. Modified starch or thickeners shall not exceed 1 percent of product formulation. No more than 70 mg sodium per 1.4 cup. Pack size 6/#10 cans. Meets requirements for Red/Orange Vegetable category requirements for NSLP

#### SCOPE

The Savannah Chatham County Board of Education on behalf of the Savannah Chatham County School Nutrition Department is soliciting sealed bids for contractors to process USDA commodity foods. The bidder MUST be approved by the State of Georgia Food Processing Program. The items submitted MUST be on the list of approved processors' end products. The processor MUST be able to make multiple deliveries of product throughout the school year. The amount of product delivered will be mutually agreed upon between Savannah Chatham County School Nutrition Program and the processor. All freight and delivery charges MUST be included in the unit cost. According to Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act, Section 12 (n) of the National School Lunch Act, Savannah Chatham County will purchase domestically grown and processed foods, to the maximum extent practicable. In some cases the supplier may be asked to certify the percentage of U.S. content in products supplied.

**BID CLOSING DATE AND TIME**

Bids will be received by the Savannah Chatham County Board of Education until 2:00 p.m. May 21, 2013, at 208 Bull Street, Savannah, Georgia 31401 at which time the sealed bids will be opened.

**DELIVERY AND FREIGHT REQUIREMENTS**

Bid prices will include delivery and freight charges with delivery to be made to **Williams Institutional Foods, Douglas, Georgia 31534**. Notice of delivery must be received in writing at least one week prior to delivery. Multiple deliveries will be made throughout the school year. The amount of product delivered will be mutually agreed upon between the Savannah Chatham County School Nutrition Program and the processor.

**AWARD TO LOWEST RESPONSIVE, RESPONSIBLE BIDDER**

The Savannah Chatham County Board of Education reserves the right to award to the lowest responsive, responsible bidder. This may result in bids to other than the lowest bidder, or to reject any and all bids, if such action would result in the "best value" for the Savannah Chatham County Board of Education.

**CONTRACT TERM**

The contract period shall be for one year from the beginning date of contract. The Savannah Chatham County Board of Education may unilaterally terminate this contract in whole or in part, for the school system's convenience, or because of failure of the vendor to fulfill the contract obligations in any respect.

**QUESTIONS**

All questions regarding this solicitation must be submitted in writing (by fax) to: Sabrina Scales Interim Purchasing Director 912-201-7648.



## **INSTRUCTIONS FOR BID SUBMITTAL**

### **BID SUBMISSION REQUIREMENTS**

**BID FORM:** Each bid must be submitted on **Attached Bid Submittal Form/ Commodity Processing-Fee for Service form** and include an end product data schedule for each item. If the processor fails to meet the guaranteed minimum number of cases, the food processor will reimburse Savannah Chatham County School Nutrition Program for the value of the commodity that would have been used to produce each case. Rework is not acceptable as specified product on the minimum guaranteed return. The bid for 2013/2014 will be for only direct ship product and not include any backhaul product.

**BID SUBMISSION:** Bids shall be enclosed in a sealed envelope, addressed to the Savannah Chatham County Board of Education with the name and address of the bidder, the date and hour of the opening, and the invitation number "COMMODITY PROCESSING", on the face of the envelope. Only one sealed bid may be submitted in each envelope. If you are submitting more than one bid, a separate envelope must be used for each bid and be clearly identified. The sealed envelope containing the bid must be enclosed in another envelope addressed to:

Purchasing Department  
Savannah Chatham County Public School System  
208 Bull Street,  
Savannah Georgia 31401

All bids must be either typewritten or filled in with pen, and must be signed in ink by an officer or employee having authority to bind the company or firm. The signatory of the bid must initial corrections or changes on any document. Bidders will not be allowed to modify their bids after designated opening date and time.

### **NOTICE TO BIDDERS**

It is the sole responsibility of bidder(s) to ensure that bids reach the Purchasing Department on or before the closing date and time. The Savannah Chatham County Board of Education shall in no way be responsible for delays caused by any occurrence. Offers by telephone, facsimile or email will not be accepted. The Savannah Chatham County Board of Education will not be responsible for late deliveries or delayed mail. The bid opening time shall be strictly observed. Under no circumstances shall bids delivered after the specified time be considered.

### **SPECIAL TERMS AND CONDITIONS**

#### **ACCESS TO RECORDS**

Each vendor will provide access to any duly authorized representative of the School Food Authority, State Agency, U.S. Department of Agriculture, and/or Comptroller General to any books, documents, papers and records of the vendor that are directly pertinent to the contract.

#### **DEBARMENT**

By signing this agreement, the bidder is testifying that they are not debarred, suspended or have any ineligible or voluntary exclusions with the U.S. Department of Agriculture. All responses will be verified.

**OFFER**

The offer conveyed by this bid shall remain open pending award for a period of 120 days from the date of opening.

**OBLIGATION**

Any reference to quantities or dollar amounts is provided as an estimate only, and shall not serve to obligate the School System to purchase any minimum amount; nor shall any such reference serve to establish any maximum amount the vendor is required to furnish.

**AMENDMENTS**

The Savannah Chatham County BOE reserves the right to amend this Invitation for Bid prior to the due date. All amendments and additional information will be posted to the Savannah Chatham County web site.

**INVOICE PROCEDURES**

Two invoices will be present with each delivery. Invoices will be signed by the supervisor after the quantity and quality has been checked to meet specifications and sent directly to the School Nutrition Program, 208 Bull Street, 2nd Floor, Savannah, Georgia, 31401. An additional copy shall be sent to Accounts Payable, Room 119, 208 Bull St. Savannah Ga 31401

All invoices will be paid through the Savannah Chatham Board of Education after the approval of school nutrition officials.

**PIGGYBACKING**

The Vendor agrees to allow the Savannah Chatham County Board of Education and other public agencies and school districts in the State of Georgia to purchase items listed in this bid, at the same terms and conditions as listed in this solicitation, during the period of time that this contract is in effect. Districts and agencies may order additional items in various quantities. Any liability created by Purchase Orders issued against this agreement shall be the sole responsibility of the district or agency placing the order. Prices and terms shall remain firm and in effect for the specified term of this contract following the award of this bid, unless otherwise specified.

**SAVANNAH CHATHAM COUNTY BOARD OF EDUCATION**  
**Georgia Department of Education**  
**STANDARD SFA CONTRACT**  
**Contract Terms and Conditions**

**A. DEFINITIONS AND GENERAL INFORMATION**

**1. Definitions.** The following words shall be defined as set forth below:

(i) "**Bid Unit**" means the unit designation which shall be applicable to all pricing offered for bid evaluation purposes. Unit cost, freight, fixed fee, estimated usage and the extended cost shall be stated in terms of the designated bid unit. In some instances, the bid unit and the package unit may be the same.

(ii) "**Contractor**" means the provider of the goods and services under the Contract.

(iii) "**Damaged Item**" refers to an item that has sustained damage that would allow spillage from the original container, a loss or disfigurement of a label that would hinder identification, contaminated package that would affect the content of that package or any other happening that would affect the quality and/or quantity of the original item.

(iv) "**Purchase Instrument**" means the documentation issued by the School Food Authority to the Contractor for a purchase of goods and services in accordance with the terms and conditions of the Contract. It may include an identification of the items to be purchased, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by the School Food Authority.

(v) "**Purchase Unit**" means the package configuration ( case, carton, box, bag, etc ) by which the product would normally be sold. This shall also mean packaging being referred to when the term "case price" is applicable.

(vi) "**Response**", "**Contractor's Response**" or "**Final Response**" means the Contractor's submitted response to the RFX, including any modifications or clarifications accepted by the School Food Authority.

(vii) "**RFP**" means the Request for Proposal, Request for Bid, Invitation to Bid (ITB), E-source or other solicitation document (and any amendments or addenda thereto) specifically identified in the School Food Authority Standard Contract Form that was issued to solicit the goods and services that are subject to the Contract.

**(viii) "Savannah Chatham County Board of Education"** means the Savannah Chatham County Board of Education, the School Food Authority, and any other authorized Savannah Chatham County Board of Education entities issuing Purchase Instruments against the Contract.

**(ix) "School Food Authority" - SFA** -means the Savannah Chatham County Board of Education governmental entity identified in the School Food Authority Standard Contract Form to contract with the Contractor for the goods and services identified in the Contract.

**(x) "School Food Authority Standard Contract" or "Contract"** means the agreement between the School Food Authority and the Contractor as defined by the School Food Authority Standard Contract Form and its incorporated documents.

**(xi) "School Food Authority Standard Contract Form"** means the document that contains basic information about the Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFP, Contractor's Response to the RFP, the final pricing documentation for goods and services and any mutually agreed clarifications, modifications, additions and deletions resulting from final contract negotiations. No objection or amendment by a Contractor to the RFX requirements or the Contract shall be incorporated by reference into this Contract unless the School Food Authority has accepted the Contractor's objection or amendment in writing. The School Food Authority Standard Contract Prototype Form is defined separately and referred to separately throughout the School Food Authority Standard Contract as a means of identifying the location of certain information. For example, the initial term of the Contract is defined by the dates in the School Food Authority Standard Contract Prototype Form.

**2. Priority of Contract Provisions.** Any pre-printed contract terms and conditions included on Contractor's forms or invoices shall be null and void.

**3. Reporting Requirements.** Contractor shall provide all reports required by the RFP.

## **B. DURATION OF CONTRACT**

**1. Contract Term.** The Contract between the School Food Authority and the Contractor shall begin and end on the dates specified in the School Food Authority Standard Contract Form, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 50-5-64, this Contract shall not be deemed to create a debt of the Savannah Chatham County Board of Education for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

**2. Contract Renewal.** The Savannah Chatham County Board of Education shall have the option, in its sole discretion, to renew the Contract for 4 additional renewals as defined in this contract on a year-to-year basis by giving the Contractor written notice of the renewal decision at least one hundred twenty (120) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the SCCPSS, funding, and Contractor's performance. Renewal will be accomplished through the issuance of an Amendment. Upon the SCCPSS election, in its sole discretion, to renew any part of this Contract, Contractor shall remain obligated to perform in strict accordance with this Contract unless otherwise agreed by the SCCPSS and the Contractor.

## **C. DESCRIPTION OF GOODS AND SERVICES**

**1. Specifications in Bidding Documents.** The Contractor shall provide all goods and services required in the Invitation to Bid that comply with the specifications contained in the ITB and the terms of the Contract, plus those goods, services and deliverables as may additionally be described in the Response.

**2. Product Shipment and Delivery.** All products shall be shipped F.O.B. destination. Destination shall be the location(s) specified in the ITB or any provided Purchase Instrument. All items shall be at the Contractor's risk until they have been delivered and accepted by the Savannah Chatham County School Food Service Director, Lydia Martin. All items shall be subject to inspection on delivery. Hidden damage will remain the responsibility of the Contractor to remedy without cost to the School Food Authority, regardless of when the hidden damage is discovered.

**3. Non-Exclusive Rights.** The Contract is not exclusive. The School Food Authority reserves the right to select other contractors to provide goods and services similar to goods and services described in the Contract during the term of the Contract.

## **D. COMPENSATION**

**1. Pricing.** The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the ITB and final pricing documents as incorporated into the School Food Authority Standard Contract Form and the terms of the Contract. Unless clearly stated otherwise in the School Food Authority Standard Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties.

**2. Billings.** If applicable, and unless the ITB provides otherwise, the Contractor shall submit, on a regular basis, an invoice for goods and/or services supplied to the School Food Authority under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The School Food Authority shall pay all approved invoices in

arrears and in accordance with applicable provisions of Savannah Chatham County Board of Education law.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the School Food Authority for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

**3. Delay of Payment Due to Contractor's Failure.** If the School Food Authority in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the School Food Authority may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the School Food Authority to incur costs, the School Food Authority may deduct the amount of such incurred costs from any amounts payable to Contractor. The School Food Authority's authority to deduct such incurred costs shall not in any way affect the School Food Authority's authority to terminate the Contract.

**4. Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the School Food Authority and/or the Savannah Chatham County Board of Education any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the School Food Authority and/or the Savannah Chatham County Board of Education may set off the sum owed to the School Food Authority and/or the Savannah Chatham County Board of Education against any sum owed by the School Food Authority and/or the Savannah Chatham County Board of Education to the Contractor in the School Food Authority's sole discretion.

#### **E. TERMINATION**

**1. Immediate Termination.** Pursuant to O.C.G.A. Section 50-5-64, this Contract will terminate immediately and absolutely if the School Food Authority determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the School Food Authority cannot fulfill its obligations under the Contract, which determination is at the School Food Authority's sole discretion and shall be conclusive. Further, the School Food Authority may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

(i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

(ii) The School Food Authority determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have

caused, or reasonably could cause, life, health or safety to be jeopardized;

(iii) The Contractor fails to comply with confidentiality laws or provisions; and/or

(iv) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

**2. Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for the School Food Authority to declare the Contractor in default of its obligations under the Contract:

(i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform, to the School Food Authority's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;

(ii) The School Food Authority determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;

(iii) The Contractor fails to make substantial and timely progress toward performance of the Contract;

(iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or Savannah Chatham County Board of Education law or State law to the extent allowed by applicable federal or county or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the School Food Authority reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

(v) The Contractor has failed to comply with applicable federal, Savannah Chatham County Board of Education and State laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;

(vi) The Contractor has engaged in conduct that has or may expose the School Food Authority or the Savannah Chatham County Board of Education to liability, as determined in the School Food Authority's sole discretion; or

(vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the School Food Authority, the Savannah Chatham County Board of Education, or a third party.

**3. Notice of Default.** If there is a default event caused by the Contractor, the School Food Authority shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the School Food Authority's written notice to the Contractor. If the breach or noncompliance is not

remedied within the period of time specified in the written notice, the School Food Authority may:

- (i) Immediately terminate the Contract without additional written notice; and/or
- (ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- (iii) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

**4. Termination Upon Notice.** Following thirty (30) days' written notice, the School Food Authority may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for goods and services provided under the Contract to the School Food Authority up to and including the date of termination.

**5. Termination Due to Change in Law.** The School Food Authority shall have the right to terminate this Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:

- (i) The School Food Authority's authorization to operate is withdrawn or there is a material alteration in the programs administered by the School Food Authority; and/or
- (ii) The School Food Authority's duties are substantially modified.

**6. Payment Limitation in Event of Termination.** In the event of termination of the Contract for any reason by the School Food Authority, the School Food Authority shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to and including the date of termination of the Contract and for which the School Food Authority is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the School Food Authority under the Contract in the event of termination. The School Food Authority shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

**7. The Contractor's Termination Duties.** Upon receipt of notice of termination or upon request of the School Food Authority, the Contractor shall:

- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting there from, and any other matters the School Food Authority may require;



- (ii) Immediately cease using and return to the School Food Authority, any personal property or materials, whether tangible or intangible, provided by the School Food Authority to the Contractor;
- (iii) Comply with the School Food Authority's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- (iv) Cooperate in good faith with the School Food Authority, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
- (v) Immediately return to the School Food Authority any payments made by the School Food Authority for goods and services that were not delivered or rendered by the Contractor.

## **F. CONFIDENTIAL INFORMATION**

**1. Access to Confidential Data.** The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the Savannah Chatham County Board of Education to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the Savannah Chatham County Board of Education. If it is reasonably likely the Contractor will have access to the Savannah Chatham County Board of Education's confidential information, then:

- (i) The Contractor shall provide to the Savannah Chatham County Board of Education a written description of the Contractor's policies and procedures to safeguard confidential information;
  - (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
  - (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
  - (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract.
- The private or confidential data shall remain the property of the Savannah Chatham County Board of Education at all times. Some services performed for the School Food Authority may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

**2. No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as

authorized by law and with the written consent of the Savannah Chatham County Board of Education, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the Savannah Chatham County Board of Education. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the Savannah Chatham County Board of Education.

**3. Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the Savannah Chatham County Board of Education and cooperate with the Savannah Chatham County Board of Education in any lawful effort to protect the confidential information.

**4. Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the Savannah Chatham County Board of Education any unauthorized disclosure of confidential information.

**5. Survives Termination.** The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

## **G. INDEMNIFICATION**

**1. Contractor's Indemnification Obligation.** The Contractor agrees to indemnify and hold harmless the Savannah Chatham County Board of Education and Savannah Chatham County Board of Education officers, employees, agents, and volunteers (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:

(i) Any breach of the Contract;

(ii) Any negligent, intentional or wrongful act or omission of the Contractor or any employee, agent or subcontractor utilized or employed by the Contractor;

(iii) Any failure of goods to comply with applicable specifications, warranties, and certifications under the Contract;

(iv) The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the goods or any parts thereof provided under the Contract;

(v) Claims, demands, or lawsuits that, with respect to the goods or any parts thereof, allege product liability, strict product liability, or any variation thereof;

(vi) The Contractor's performance or attempted performance of the Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;

(vii) Any failure by the Contractor to comply with the "Compliance with the Law" provision of the Contract;

(viii) Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Georgia or in the United States;

(ix) Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or

(x) Any failure by the Contractor to adhere to the confidentiality provisions of the Contract.

**2. Duty to Reimburse Savannah Chatham County Board of Education Tort Claims Fund.** To the extent such damage or loss as covered by this indemnification is covered by the State of Georgia Tort Claims Fund ("the Fund"), the Contractor (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of State and the terms of the Fund, the Contractor and its insurers waive any right of subrogation against the State, the Indemnified Parties, and the Fund and insurers participating there under, to the full extent of this indemnification.

**3. Litigation and Settlements.** The Contractor shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnified Parties. No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Contractor unless approved in writing by Contractor. No settlement or compromise of any claim, loss or damage entered into by Contractor shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties.

**4. Survives Termination.** The indemnification obligation of the Contractor shall survive termination of the Contract.

## **H. INSURANCE**

Contractor shall provide all insurance as required by the ITB and it must be the amount of any insurance coverage, which has been purchased to protect the value of the food items which may be stored. The suggested minimum requirements are:

### **Standard Insurance Limits for Goods and Ancillary Services**

Workers Compensation (WC): Statutory Limits – required in all contracts

Bodily injury by Accident – each employee \$ 100,000

Bodily injury by Disease – each employee \$ 100,000

Bodily Injury by Disease – policy limit \$ 500,000

Commercial General Liability (CGL):

Each Occurrence Limit \$ 1,000,000

Personal & Advertising Injury Limit \$ 1,000,000  
General Aggregate Limit \$ 2,000,000  
Products/Completed Ops. Aggregate Limit \$ 2,000,000

Automobile Liability  
Combined Single Limit \$ 1,000,000

Certificates to contain policy number, policy limits and policy expiration date of all policies issued in accordance with this contract.

Certificates shall contain the location and operations to which the insurance applies.

Certificates shall contain Contractor's insurance coverage. If coverage is included in General Liability, please indicate this on the Certificate of Insurance.

Certificates are to be issued to:

**Savannah Chatham County Board of Education**

208 Bull Street

Savannah, Georgia, 31401

The Contractor shall mail insurance document listed in this form to: Savannah Chatham County Public School System Purchasing Director, Room 213, 208 Bull Street Savannah, Georgia, 31401

Contractor should ask insurance agent to review the form after it is completed to ensure the form will not have to be returned due to omissions or typographical errors.

Either the Contractor or Contractor's insurance agent should mail or otherwise deliver certificates to the Purchasing Department.

**I. WARRANTIES**

**1. Construction of Warranties Expressed in the Contract with Warranties Implied by Law.** All warranties made by the Contractor and/or subcontractors in all provisions of the Contract and the Contractor's Response, whether or not the Contract specifically denominates the Contractor's and/or subcontractors' promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials, goods and services to be provided, or by provision of samples to the Savannah Chatham County Board of Education shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Contractor. The provisions of this section apply during the term of the Contract and any extensions or renewals thereof.

**2. Warranty – Nonconforming Goods.** All goods delivered by Contractor to the School Food Authority shall be free from any defects in design, material, or workmanship. If any goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, the School Food Authority shall have the option of returning, repairing, or replacing the defective goods at Contractor's expense. Payment for goods shall not constitute acceptance. Acceptance by the School Food Authority shall not relieve the Contractor of its warranty or any other obligation under the Contract.

**3. Compliance with Federal Safety Acts.** Contractor warrants and guarantees to the Savannah Chatham County Board of Education that the goods provided under the Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of

1986.

**4. Compliance with USDA Federal Regulations for Child Nutrition Programs - 7 CFR Part 3015 to CFR Parts 3016 and 3019**

**5. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h) Clean Air and Water Certification.** 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. Contractor will immediately notify the School Food Authority 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.

**6. Compliance with Federal Clean Water Act - section 508 - (33 U.S.C. 1368) and Executive Order 11738 and Environmental Protection Agency regulations (40 CFR 15) (for contracts, subcontracts, and subgrants of amounts in excess of \$100,000)**

**7. Compliance with mandatory standards and policies relating to energy efficiency which are contained in the Savannah Chatham County Board of Education energy conservation plan issued in compliance with the Energy Policy and conservation Act ( Public Law 94-163, 89 Stat.871)**

**8.** In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992. (Voice) Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

**9. Compliance with Buy American Act - Federal Acquisition Regulation (7 CFR 210.21).**

**10. Debarred, Suspended, and Ineligible Status.** Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the Savannah Chatham County Board of Education or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify the School Food Authority if Contractor is debarred by the Savannah Chatham County Board of Education or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

**11. Originality and Title to Concepts, Materials, and Goods Produced.** Contractor represents and warrants that all the concepts, materials, goods and services produced, or provided to the Savannah Chatham County Board of Education pursuant to the terms of the Contract shall be wholly original with the Contractor or that the Contractor has

secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Contractor represents and warrants that the concepts, materials, goods and services and the Savannah Chatham County Board of Education's use of same and the exercise by the Savannah Chatham County Board of Education of the rights granted by the Contract shall not infringe upon any other work, other than material provided by the Contract to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods and services contemplated by the Contract.

**12. Conformity with Contractual Requirements.** The Contractor represents and warrants that the goods and services provided in accordance with the Contract will appear and operate in conformance with the terms and conditions of the Contract.

**13. Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into the Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the Savannah Chatham County Board of Education and the School Food Authority.

**14. Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that the Savannah Chatham County Board of Education and the School Food Authority will not have any obligations with respect thereto.

**15. Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to the Savannah Chatham County Board of Education is good and that transfer of title or license to the Savannah Chatham County Board of Education is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

**16. Industry Standards.** The Contractor represents and expressly warrants that all aspects of the goods and services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.

**17. Contractor's Personnel and Staffing.** Contractor warrants that all persons assigned to perform services under this Contract are either lawful employees of Contractor or lawful employees of a Subcontractor authorized by the School Food Authority as specified in the RFX. All persons assigned to perform services under this Contract shall be qualified to perform such services. Personnel assigned by Contractor shall have all

professional licenses required to perform the services.

**18. Use of Savannah Chatham County Board of Education Vehicles.** Contractor warrants that no Savannah Chatham County Board of Education vehicles will be used by Contractor for the performance of services under this Contract. Contractor shall be responsible for providing transportation necessary to perform all services.

#### **J. PRODUCT RECALL**

In the event that any of the goods are found by the Contractor, the Savannah Chatham County Board of Education, any governmental agency, or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to the School Food Authority and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude the School Food Authority from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and the School Food Authority shall agree to the performance of such repairs by the School Food Authority upon mutually acceptable terms.

#### **K. CONTRACT ADMINISTRATION**

**1. Order of Preference.** In the case of any inconsistency or conflict among the specific provisions of the School Food Authority Standard Contract Terms and Conditions (including any amendments accepted by both the School Food Authority and the Contractor attached hereto), the ITB (including any subsequent addenda and written responses to bidders' questions), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:

(i) First, by giving preference to the specific provisions of the School Food Authority Standard Contract Terms and Conditions.

(ii) Second, by giving preference to the specific provisions of the ITB.

(iii) Third, by giving preference to the specific provisions of the Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by the School Food Authority in writing shall not be included in this Contract and shall be given no weight or consideration.

**2. Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as Savannah Chatham County Board of Education in the ITB and the Contractor's Response. The failure of the parties to make reference to the terms of the ITB or the Contractor's Response in this document shall not be construed as creating a



conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the ITB and the Contractor's Response. The contractual obligations of the School Food Authority cannot be implied from the Contractor's Response.

**3. Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, State of GA, Savannah Chatham County Board of Education, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, State and local laws regarding business permits and licenses that may be required to carry out the work performed under the Contract. Contractor and Contractor's personnel shall also comply with all Savannah Chatham County Board of Education and School Food Authority policies and standards in effect during the performance of the Contract, including but not limited to the School Food Authority's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. Section 45-10-20 et seq. have not and must not be violated under the terms of this Contract.

**Ethics.**

Per Governor's Executive Order (January 13, 2003) and the established Code of Ethics for Executive Branch and all State Employees: State Employees (this includes any employee of any agency, commission, council, authority, corporation, entity - and any family member, uncle, aunt, nephew, niece, first cousin, etc.) must avoid any conduct, whether in the context of business, financial or social relationships, which might undermine the public trust, whether that conduct is unethical or lends itself to the appearance of ethical impropriety.

**4. Drug-free Workplace.** The Contractor hereby certifies as follows:

- (i) Contractor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Contract; and
- (ii) If Contractor has more than one employee, including Contractor, Contractor shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section 50-24-1 et seq., throughout the duration of this Contract; and
- (iii) Contractor will secure from any subcontractor hired to work on any job assigned under this Contract the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3."

Contractor may be suspended, terminated, or debarred if it is determined that:

- (i) Contractor has made false certification here in above; or
- (ii) Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. Section 50-24-3(b).

**5. Amendments.** The Contract may be amended in writing from time to time by mutual consent of the parties. If the contract award exceeds the delegated purchasing authority of the School Food Authority, then the School Food Authority must obtain approval of the amendment from the Department of Administrative Services (DOAS). All amendments to the Contract must be in writing and fully executed by duly authorized representatives of the School Food Authority and the Contractor.

**6. Third Party Beneficiaries.** There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit the School Food Authority, the Savannah Chatham County Board of Education, and the Contractor.

**7. Choice of Law and Forum.** The laws of the State of Georgia and the Savannah Chatham County Board of Education shall govern and determine all matters arising out of or in connection with this Contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Savannah Chatham County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the Savannah Chatham County Board of Education.

**8. Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation.** In addition to any dispute resolution procedures otherwise required under this Contract or any informal negotiations which may occur between the parties, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen (14) calendar days written notice to the other party of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either party may elect to submit the matter for mediation. Either party may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Savannah, Georgia; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs; provided, however that the cost to School Food Authority shall not exceed five thousand dollars (\$5,000.00).

All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Inadmissibility notwithstanding, all written documents shall nevertheless be subject to the Georgia Open Records Act O.C.G.A. Section 50-18-70 et seq.

No party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, forty-five

(45) calendar days after the date of filing the written request for mediation with the mediator or mediation service, or sixty (60) calendar days after the delivery of the written demand for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

**9. Assignment and Delegation.** The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the School Food Authority. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.

**10. Use of Third Parties.** Except as may be expressly agreed to in writing by the School Food Authority, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than Contractor or Contractor's personnel to perform any of Contractor's obligations under this Contract or any of the work subsequently assigned under this Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of the School Food Authority. The School Food Authority shall have the right to request the removal of a subcontractor from the Contract for good cause.

**11. Integration.** The Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.

**12. Headings or Captions.** The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**13. Not a Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for goods and services and acting toward the mutual benefits expected to be derived here from. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of the Savannah Chatham County Board of Education. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

**14. Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Contract, and for any default of activities and obligations.

**15. Supersedes Former Contracts or Agreements.** Unless otherwise specified in the Contract, this Contract supersedes all prior Contracts or Agreements between the School Food Authority and the Contractor for the goods and services provided in connection with the Contract.

**16. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the School Food Authority and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**17. Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the School Food Authority Standard Contract Form. Each such notice shall be deemed to have been provided:

- (i) At the time it is actually received; or,
- (ii) Within one (1) day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,
- (iii) Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

**18. Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in the Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

**19. Severability.** If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of the parties to amend, modify, eliminate, or otherwise change any part of this Contract shall not affect any other part of this Contract, and the remainder of this

Contract shall continue to be of full force and effect.

**20. Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Contract. Contractor shall ensure that all personnel providing goods and services to the Savannah Chatham County Board of Education are responsive to the Savannah Chatham County Board of Education's requirements and requests in all respects.

**21. Authorization.** The persons signing this Contract represent and warrant to the other parties that:

(i) It has the right, power and authority to enter into and perform its obligations under the Contract; and

(ii) It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**22. Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**23. Record Retention and Access.** 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 Savannah Chatham County Board of Education throughout the term of the Contract 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 the Auditor of the Savannah Chatham County Board of Education 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 Savannah Chatham County Board of State 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 Savannah Chatham County Board of Education reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

**24. Solicitation.** The Contractor warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.

**25. Public Records.** The laws of the Savannah Chatham County Board of Education, including the State of Georgia Open Records Act, as provided in O.C.G.A. Section 50-18-70 et seq., require procurement records and other records to be made public unless otherwise provided by law.

**26. Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, Savannah Chatham County Board of Education trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Savannah Chatham County Board of Education.

**27. Taxes.** The Savannah Chatham County School Food Authority and Board of Education is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. The School Food Authority is exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Contractor or an authorized subcontractor has provided the School Food Authority with a sworn verification regarding the filing of unemployment taxes or persons assigned by Contractor to perform services required in this Contract, which verification is incorporated herein by reference.

**28. Certification Regarding Sales and Use Tax.** By executing the Contract the Contractor certifies it is either (a) registered with the Georgia Department of Revenue, collects, and remits State of Georgia sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a "retailer" as defined in O.C.G.A. Section 48-8-2. The Contractor also acknowledges that the Savannah Chatham County Board of Education may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the School Food Authority or its representative filing for damages for breach of contract.

**29. Delay or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is delayed or made impossible by an act of God. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract.

**30. Limitation of Contractor's Liability to the Savannah Chatham County Board of Education.** Except as otherwise provided in this Contract, Contractor's liability to the Savannah Chatham County Board of Education for any claim of damages arising out of this Contract shall be limited to direct damages and shall not exceed the total amount paid to Contractor for the performance under this Contract.

No limitation of Contractor's liability shall apply to Contractor's liability for loss or damage to Savannah Chatham County Board of Education equipment or other property while such equipment or other property is in the sole care, custody, and control of Contractor's personnel. Contractor hereby expressly agrees to assume all risk of loss or damage to any such

Savannah Chatham County Board of Education equipment or other property in the care, custody, and control of Contractor's personnel. Contractor further agrees that equipment transported by Contractor personnel in a vehicle belonging to Contractor (including any vehicle rented or leased by Contractor or Contractor's personnel) shall be deemed to be in the sole care, custody, and control of Contractor's personnel while being transported. Nothing in this section shall limit or affect Contractor's liability arising from claims brought by any third party.

**31. Obligations Beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract. All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.

**32. Counterparts.** The parties agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**33. Further Assurances and Corrective Instruments.** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract.

**34. Transition Cooperation and Cooperation with other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to the Savannah Chatham County Board of Education or another contractor. The Contractor shall provide full disclosure to the Savannah Chatham County Board of Education and the third-party contractor about the equipment, software, or services required to perform services for the Savannah Chatham County Board of Education. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the services to the Savannah Chatham County Board of Education or to another contractor. Further, in the event that the Savannah Chatham County Board of Education has entered into or enters into agreements with other contractors for additional work related to services rendered under the Contract, Contractor agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.

**CERTIFICATE OF NON-COLLUSION**

By responding to this solicitation, the supplier understands and agrees to the following:

1. That the submitted response constitutes an offer, which when accepted in writing by the State Entity, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the State Entity; and
2. That the supplier has read the specifications and requirements shown or referenced in the solicitation and that the supplier’s response is made in accordance with the provisions of such specifications and requirements except as expressly stated otherwise in the supplier’s response; and
3. That the supplier guarantees and certifies that all items included in the supplier’s response meet or exceed any and all such stated specifications and requirements of the solicitation except as expressly stated otherwise in the supplier’s response; and
4. That, if awarded a contract, the supplier will deliver goods and/or services that meet or exceed the specifications and requirements of the solicitation except as expressly stated otherwise in the supplier’s response; and
5. That the response submitted by the supplier shall be valid and held open for a period of **one hundred and twenty (120) days (or such other time period as identified in the solicitation)** from the final solicitation closing date and that the response may be held open for an additional period of time subject to the supplier’s consent; and
6. That the supplier’s response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. The supplier understands and agrees that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards; and
7. That the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et seq. have not been violated and will not be violated in any respect.

**DO NOT MODIFY THE BID/PROPOSAL CERTIFICATION TERMS IN ANY WAY. THIS FORM MUST BE COMPLETED, SIGNED AND SUBMITTED WITH YOUR RESPONSE.**

<b>Contractor’s Full Legal Name: (PLEASE TYPE OR PRINT)</b>	
<b>Authorized Signature:</b>	
<b>Printed Name and Title of Person Signing:</b>	
<b>Date:</b>	
<b>Company Address:</b>	
<b>FAX Number:</b>	
<b>Email Address:</b>	
<b>*This table must be completed in its entirety by the supplier.</b>	



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## **ATTACHMENT "B"**

### **INSURANCE REQUIREMENTS**

Before performing any work on the awarded contract, the successful bidder shall procure and maintain, during the life of said contract, insurance coverage as listed below. 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.

1. Worker's Compensation Insurance. Statutory in accordance with OGGA 34-9.
2. Commercial General Liability. Including but not limited to bodily injury, property damage, contractual and personal injury with limits of not less than \$100,000 combined single limit per occurrence, \$500,000 per project aggregate covering all work performed under this contract.
3. Automobile liability. Bodily injury and property damage including all vehicles owned, leased, hired and non-owned with limits of not less than \$1,000,000 combined single limit covering all work performed under the contract. (Limits may be satisfied by combining an Umbrella form and Automobile Liability form for a combined total limit of \$1,000,000). Each bidder shall submit a certificate of insurance and liability/collision coverage for drivers who will transport vehicles to and from Board property. The successful bidder shall be required to list the Board as additionally insured.
4. Umbrella Liability. With limits of not less than \$1,000,000 per occurrence covering all work performed under this contract.
5. The Board, its officers and/or officials, employees and volunteers shall be named as insured under awarded bidder's insurance policy for the duration of this contract.

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## ATTACHMENT C

### **LMWBE BUSINESS PARTICIPATION PROGRAM**

It is the policy of the Board of Public Education (“owner”) that minority and women business enterprises shall have the maximum opportunity to participate in school board projects. The bidder who may receive contract award shall take all necessary and reasonable steps in accordance with this solicitation to insure that LMWBE’s have that maximum opportunity to participate in the resulting contract. The bidder shall not discriminate on the basis of race, color, national origin or sex in the award or performance of any subcontracts or purchase orders resulting from or relating to this solicitation. Moreover, the bidder shall take affirmative action and otherwise make good faith efforts as described in the section below entitled “Good Faith Efforts” to select contractors, vendors, and suppliers from certified LMWBEs.

The following completed documents are to be submitted with all bids:

1. Proposed schedule of LMWBE participation (Exhibit #1)
2. Documentation of Good Faith Efforts (Exhibit #2)

The following completed documents are to be submitted with all bids if applicable:

1. Joint Venture disclosure requirement form (Exhibit #3)

The successful bidder will be required to submit in duplicate and one copy submitted with contractor’s request for monthly and final payments and the second copy directly to the cooperative minority and women business development program.

1. LMWBE monthly payment form (Exhibit #4)

## **DEFINITIONS OF LMWBE**

A Minority Business Enterprise is an independent, continuing venture that is at least 51% owned by a minority person or persons that meets the criteria for a Disadvantaged Business. A Disadvantaged Business is a small business which is owned, controlled and managed on a daily basis by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantage. This includes:

1. African - American - A person having origins in any of the Black racial groups of Africa;
2. Hispanic - American - A person of Spanish culture with origins in Mexico, South America, Central America or the Caribbean, regardless of race;
3. Local - A local business enterprise is defined as (1) having established a regular, physical place of business other than a job site office with at least one employee within the geographical boundaries of the Savannah Georgia Metropolitan Statistical Area (MSA) prior to the closing date on the solicitation (a post office box address will not satisfy this requirement); (2) having a current Business Tax Certificate and other licenses, certificates, or permits required by law to operate a business in that location; and (3) performing a commercially useful function within the local office.
4. Women Business Enterprise - WBE - A Women Business Enterprise is an independent, continuing venture that is at least 51% owned by one or more women. To qualify as an LMWBE, the owner must be a citizen or lawful permanent resident of the United States, be involved in daily business operations, and provide a commercially useful function. The ownership interest must be real and continuous and not created solely to meet the local/minority/women business or local/minority/women contractor good faith efforts.

The School District's Program Management Firm is available to identify and facilitate qualified Local and/or Minority and/or Women Owned Businesses through its community outreach division. The contact person for this assistance is Sylvester Formey, Phone 912-236-1766 and email [sylvesterf@vangdist.com](mailto:sylvesterf@vangdist.com).

For more information regarding how to best provide opportunities for business growth and development for local and disadvantaged business enterprises, please contact:

Gail Delaney  
Savannah Entrepreneurial Center  
801 E. Gwinnett Street  
Savannah, GA 31401  
(912) 652-3582 (Phone)  
email: [gdelaney@savannahga.gov](mailto:gdelaney@savannahga.gov)

The Savannah Entrepreneurial Center of the City of Savannah is merely a reference resource, and has and shall have no authority in the evaluation of Offerors or Statements of Qualifications, or in the disposition of grievances or protests pertaining to this RFQ.

**ATTACHMENT C - Exhibit #1**

**PROPOSED SCHEDULE OF LMWBE PARTICIPATION**

NAME OF BIDDER/PROPOSER: \_\_\_\_\_ BID NO.: \_\_\_\_\_

PROJECT TITLE: \_\_\_\_\_ TOTAL BID AMOUNT: \$ \_\_\_\_\_

<b>NAME OF LMWBE PARTICIPANT</b>	<b>ADDRESS</b>	<b>TYPE OF WORK SUB-CONTRACTED</b>	<b>SUBCONTRACT VALUE</b>
			\$
			\$
			\$
			\$
			\$
			\$

AFRICAN-AMERICAN PARTICIPATION TOTAL VALUE: \_\_\_\_\_ % \$ \_\_\_\_\_

WOMEN PARTICIPATION TOTAL VALUE: \_\_\_\_\_ % \$ \_\_\_\_\_

OTHER MINORITY PARTICIPATION TOTAL VALUE: \_\_\_\_\_ % \$ \_\_\_\_\_

The undersigned will enter into a formal Agreement with the LMWBE Sub-contractors/Proposers identified herein for work listed in this schedule conditioned upon execution of a contract with the Savannah-Chatham County School Board.

Signature: \_\_\_\_\_

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

Under penalties of perjury I declare that I have read the foregoing conditions and instructions and the facts are true to the best of my knowledge and beliefs.

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

Signature: \_\_\_\_\_

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

Note: The School District's Program Management Firm is available to identify qualified LMWBE's. Please contact the Office at (912) 236-1766.

**ATTACHMENT C - EXHIBIT #2**

**GOOD FAITH EFFORTS REQUIREMENTS**

Vendors are required to submit with bidding documents evidence of good faith efforts utilized to ensure that minority and women enterprises are provided with the maximum opportunity of compete on this contract. Such good faith efforts of a bidder will include, but not limited to, the following:

Attendance at pre-bid meetings, if any scheduled to inform LMWBE's of subcontracting opportunities.	Yes or No  If no, please explain:
Advertisements in general circulation media, trade association publications, and minority and women business enterprise media to provide notice of subcontracting opportunities.	Yes or No
Communicating with the School District's Program Management Firm to identify available qualified LMWBEs.	Yes or No  If no, which agencies were used to identify potential LMWBE Subcontractors?
Efforts made to select portions of work for subcontracting in areas with established availability of LMWBE subcontractors.	Yes or No
Providing a minimum of five (5) days written notice to known qualified LMWBEs that their interest in prime and subcontracting opportunities or furnishing supplies is solicited.	Yes or No
Efforts to negotiate with qualified LMWBEs for specific sub-bids, including reasons for rejections of any sub-bid offered.	Please explain efforts:

**ATTACHMENT C - EXHIBIT #3**

**JOINT-VENTURE DISCLOSURE STATEMENT**

If the prime bidder is a joint venture, please describe below the nature of the joint venture and level of work and financial participation to be provided by the LMWBE joint venture firm.

Joint venture firms	Level of work	Financial participation

**ATTACHMENT C - Exhibit #4**

**LMWBE MONTHLY REPORT**

NAME OF CONTRACTOR/CONSULTANT: \_\_\_\_\_

BID NO: \_\_\_\_\_

PROJECT TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

CONTRACT AMOUNT: \$ \_\_\_\_\_

NAME OF LMWBE PARTICIPANT	ADDRESS	TYPE OF WORK SUBCONTRACTED	MONTHLY PAYMENTS
			\$
			\$
			\$
			\$

PERCENTAGE OF TOTAL CONTRACT: \_\_\_\_\_%

PERCENTAGE OF OVERALL CONTRACT COMPLETION: \_\_\_\_\_%

The undersigned hereby affirms and declares that the above listed firms were actually employed in the performance of work services under this contract, and further that each such firm earned and has been paid the stated amounts for their respective efforts.

Under penalties of perjury, I declare that I have read the foregoing conditions and instructions and the facts are true to the best of my knowledge and beliefs.

Date: Signature: \_\_\_\_\_ Title: \_\_\_\_\_

**Notes:**

1. Contractor/proposer shall attach to this report a typewritten explanation of any differences in LMWBE participation between this report and LMWBE Form 1, including an accounting for any changes in LMWBE firms employed.

**2. THIS REPORT MUST BE COMPLETED IN DUPLICATE AND ONE COPY SUBMITTED WITH CONTRACTOR'S REQUEST FOR MONTHLY AND FINAL PAYMENTS AND THE SECOND COPY DIRECTLY TO THE DISTRICT'S PROGRAM MANAGEMENT FIRM. LMWBE FORM 4 BID #ITB 13-76**

Appendix

**Commodity Processing --Fee For Service 2013-2014**

Vendor \_\_\_\_\_

<b>A Product Number and Name</b>	<b>B Commodity needed</b>	<b>C Commodity per case</b>	<b>D Processing Fee/Case</b>	<b>E Portions per case</b>

**Instructions:**

Column A: List each product that you wish to bid on according to the spec sheet. List the product number and name. If you are bidding on several items using different commodities you may put them all on the same form.

Column B: Specify the name and the number of the commodity needed to process this product.

Column C: Specify the weight in pounds of the commodity needed to process one case of product.

Column D: Specify the cost in dollars to process one case of product.

Column E: Specify the numbers of servings to provide 2 meat/meat alternate in each case. For roasted chicken state the actual pieces per case.