City of Sacramento
City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

4

Meeting Date: **1/24/2012** **Report Type:** Consent

Title: Contract: Sacramento Students Today Achieving Results for Tomorrow (START) After School Snack Program

Report ID: 2012-00046

Location: Citywide

Recommendation: Pass a motion 1) awarding an eight month contract with three renewal periods to SYSCO for the purchase of food for the Sacramento START Program (Students Today Achieving Results for Tomorrow) after-school snack program in an amount not to exceed $600,000 for the potential maximum four year term; 2) authorizing the City Manager or his designee to execute the contract and renewal options specified above provided that sufficient funds are available in the budget adopted for the applicable fiscal year(s); 3) amending City Council Resolution Number 2011-440 to repeal the approval for the Provider Select LLC contract under the US Communities Cooperative Purchase Agreement for Sacramento START after-school snack program.

Contact: Bernadette Cheek, Administrative Analyst, (916) 808-6097; Dave Mitchell, Operations Manager, (916) 808-6076; Alan Tomiyama, Recreation Manager, (916) 808-8958; Department of Parks and Recreation.

Presenter: None

Department: Parks & Recreation Department
Division: START
Dept ID: 19001631

Attachments:

1-Description/Analysis
2-Background
3-Contract With Sysco

City Attorney Review
Approved as to Form
Sheryl N. Patterson
1/19/2012 9:42:05 AM

City Treasurer Review
Reviewed for Impact on Cash and Debt
Russell Fehr
12/28/2011 3:41:13 PM

Approvals/Acknowledgements

Eileen Teichert, City Attorney Shirley Concolino, City Clerk Russell Fehr, City Treasurer
John F. Shirey, City Manager

Department Director or Designee: Jim Combs - 1/18/2012 4:18:14 PM

Eileen Teichert, City Attorney Shirley Concolino, City Clerk Russell Fehr, City Treasurer
John F. Shirey, City Manager

Back to Table of Contents

Description/Analysis

Issue: The Parks and Recreation Department purchases food and related supplies for many of its recreation programs. Sacramento START (Students Today Achieving Results for Tomorrow) program has an ongoing need to purchase food for the after-school snack program.

As a result of competitive bidding process using the required State Department of Education materials, only one bid was received by SYSCO. The City Council is being asked to authorize the City Manager or his designee to execute a contract to purchase food for the START program from SYSCO.

Policy Considerations: The recommendations in this report are in accordance with the provisions of the City Code Title 3.56 related to the process for purchase of supplies. In accordance with Sacramento City Council Resolution No. 2010-346, SYSCO is headquartered in the state of California. The proposed award is consistent with Resolution 2010-346 prohibiting the City from entering into any contract to purchase goods or services from any business or entity headquartered in Arizona.

Environmental Considerations: California Environmental Quality Act (CEQA):

This report concerns the purchase of food for the Department of Parks and Recreation's START program. Continuing administrative activities, such as the purchase of food, is not a "project" for the purposes of CEQA pursuant to section 15378(b)(2) of the CEQA Guidelines (Title 14 Cal. Code Reg. § 15000 et seq.).

Sustainability: Approval of the purchase of food for recreation programs is not applicable to the City's sustainability goals, policies and targets of the Sustainability Master Plan or the 2030 General Plan, and its impact on the City's sustainability efforts cannot be evaluated at this time.

Commission/Committee Action: There was no Park and Recreation Commission action on this item, as it is an administrative matter.

Rationale for Recommendation: The after-school snack program is required to provide snacks that meet the minimum requirements set forth in the meal pattern for older children as prescribed by Title 7 Code of Federal Regulations, Part 226.20 and as outlined in California Department of Education, Nutrition Services Division's Schedule B.

Financial Considerations: The estimated cost of food to be purchased from SYSCO through the purchasing agreement is not to exceed $600,000 for the potential maximum four year term.

Sacramento START after-school snack program is intended to be self-supporting and has been purchasing food for many years as part of their budgeted operations. No additional General Fund appropriation is required. The Sacramento START after-school snack program sites qualify for one of two federal/state grants that currently reimburse 74 cents per snack served. Purchases made that are reimbursed through the grant are generally set at a level that is less

than or equal to the 74 cent reimbursement rate. The remainder is offset through the START operating budget

Sacramento START after-school program is a fully offset, externally funded program, which has existing funding appropriated in the Approved FY2011/12 Budget. The FY2011/12 Budget Resolution 2011-391 gives sufficient authorization for any necessary appropriation and budget changes for the fully offset program (START's snack program).

In addition, Council approval is required to execute federal or state grants for reimbursement of food costs for after-school programs.

The total number of individual locations to be served by this agreement is 29. Locations may be added or deleted at any time throughout the year.

Emerging Small Business Development (ESBD): SYSCO is not certified as an emerging/small business.

Back to Table of Contents

Background

Sacramento START Snack Program

Sacramento START (Students Today Achieving Results for Tomorrow) was launched in 1996. Today, START is widely recognized as one of the most outstanding after-school literacy and enrichment programs in the country, serving thousands of elementary school children in the most disadvantaged areas of the City and County. The City of Sacramento through its Parks and Recreation Department provides management and administrative support. Funding and in-kind support is provided through a partnership with the California Department of Education, the City of Sacramento, five participating school districts, and donations from foundations, businesses and individuals. A significant portion of the funding comes from the State or from school districts whose funding comes from the State. No fees are charged to the children or their parents.

The snacks are provided to the children free of charge because at least half of the students at their elementary schools qualify for free or reduced-price school lunches. Due to the lower economic status of most of the children's families, many of the children face challenges in having access at home to adequate and nutritious food, making it difficult for the children to concentrate on their studies without the after-school snack.

Funding for the snacks comes from the California Department of Education's Child and Adult Care Food Program, which receives its funding from the U.S. Department of Agriculture (USDA). The State reimburses the City based on the number of snacks served using the unit cost of 74 cents per snack as determined by USDA. Each year the State accepts a renewal application from the City to continue the federal/state snack grant. Typically the application is then approved by the State, reauthorizing the program for another year. The current renewal extends through September 30, 2012, the end of the current Federal fiscal year.

Background on Bid Process

On July 26, 2011, Council approved the use of a cooperative purchase agreement with Premier Inc., to purchase food for Sacramento START After School Snack Program. Following this approval the California Department of Education, Nutrition Division adopted new policies and procedures regarding contracting with food providers. Participants in the California Department of Education's Child and Adult Care Food program are required to conduct formal bids using State documents along with a variety of incremental approvals throughout the bid and contracting process. As a result, the supplies for Sacramento Start After School Snack Program previously awarded to Premier Inc., was rebid. Premier Inc., was offered an opportunity to participate in the rebid, but declined to participate. SYSCO was the only participant in the current bid process and this award voids the previous award to Premier Inc., for the same purpose.

Back to Table of Contents

ATTACHMENT IV

CHILD AND ADULT CARE FOOD PROGRAM
CONTRACT FOR VENDED MEALS

THIS AGREEMENT, made and entered into this _____ day of _____

20 _____, in the State of California, by and between City of Sacramento, Dept. of Parks and Recreation/START

hereinafter referred to as the Agency and SYSCO ,

* _____ , hereinafter referred to as the Contractor.

WITNESSETH:

1. That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the Agency hereinafter expressed, does hereby agree to furnish to the Agency services and materials as described in the original Invitation for Bid and Contract, Sections A, B, C, D, E, F, G, and H, and Schedules A, B, and C, which were attached and made a part hereof by this reference.

2. The period of this contract shall be from February 1, 2012 through September 30, 2012 . This contract may be renewed for one-year periods up to three times upon agreement of the Agency and the Contractor. Any increase or decrease of the unit price(s) shall be negotiated during the renewal process.

3. In consideration of the service, performed in a manner acceptable to the Agency and in compliance with the Child and Adult Care Food Program regulations, Title 7 Code of Federal Regulations, Part 226, the agency shall pay the Contractor within 30 days of receipt, the full the amount Amount of the itemized invoices as confirmed by pickup receipts, at the unit price(s) specified in the contract.

4. The total amount payable by the Agency to the Contractor under this contract shall not exceed $150,000.00 .

IN WITNESS WHEREOF, This agreement has been executed by the parties hereto, upon the date first above written.

AGENCY	CONTRACTOR
AGENCY NAME	CONTRACTOR (STATE WHETHER A CORPORATION, PARTNERSHIP, ETC.) Sysco – corporation
BY (AUTHORIZED SIGNATURE)	BY (AUTHORIZED SIGNATURE) By
PRINTED NAME OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING Byron Maples CFO
TITLE	ADDRESS 7002 PACIFIC AVE., PLEASANT GROVE, CA. 95668

* *Sole proprietorship, partnership, corporation, etc.*

Subject to the attached Addendums

To Be Filled Out By Bidder

NAME OF CONTRACTOR: SYSCO SAC. INC.

ADDRESS: 7062 PACIFIC AVENUE, PLEASANT GROVE, CA 95668

PHONE #: (916) 569-7029 FAX #: 877-569-5180 E-MAIL:

STATE TAX I.D. #: FED. TAX I.D. #: SR-KH 97-8660068

City of Sacramento Business Operation Tax Certificate #: 120573
(Contract award will not be processed without a valid and current Certificate Number.)

TYPE OF BUSINESS ENTITY (check one): ____ Individual/Sole Proprietor ____ Partnership
X Corporation ____ Limited Liability Company
____ Other (please specify: ____)

BY: (signature of authorized person)

PRINT NAME: BYRON MAPLES

TITLE: CFO

CALIFORNIA DEPARTMENT OF EDUCATION
NUTRITION SERVICES DIVISION

CHILD AND ADULT CARE FOOD PROGRAM
DELIVERY – (REV. 2/08)

SECTION A

CHILD AND ADULT CARE FOOD PROGRAM
INVITATION FOR BID AND CONTRACT
(DELIVERY)

IFB/CONTRACT NUMBER: B#12-163-002 (Formal Advertising Only)

ISSUED BY (AGENCY): City of Sacramento, Dept. of Parks & Rec. / START

NAME: Bernadette Chiek | ADDRESS: 915 I Street 3rd Floor

CITY: Sacramento | STATE: CA | ZIP CODE: 95814 | TELEPHONE NUMBER: 916 808 6097

BID OPENING:

DATE: 11/1/11 | TIME: 10 am PST | LOCATION: Serna Center 5735 47th avenue Sacramento | ISSUE DATE: 11-4-11

BID: Please See SYSCO Addendums.

This document contains an IFB/Contract for the furnishing of meals (unitized if applicable) to be served to participants of the Child and Adult Care Food Program established by the United States Department of Agriculture (Title 7 Code of Federal Regulations, Part 226) and sets forth the terms and conditions applicable to the proposed procurement.

NAME OF COMPANY: SYSCO SACRAMENTO, INC | FEDERAL ID NUMBER: SR KH 97-8160168

STREET ADDRESS: 7000 Pacific Avenue | TELEPHONE NUMBER: (916) 609-7039

CITY: Pleasant Grove | STATE: CA | ZIP CODE: 95668

TOTAL ESTIMATED AMOUNT OF BID: N/A | Prompt Payment Discount: N/A % for payment within days.

By submission of this proposal, the company certifies that, in the event they receive an award under this solicitation, they shall operate in accordance with all applicable, current Child and Adult Care Food Program regulations.

SIGNATURE OF AUTHORIZED REPRESENTATIVE: [signature] | TITLE: Contract Supervisor | DATE: 11/28/11

ACCEPTANCE

Upon acceptance by the Agency and review by the California Department of Education, this document shall constitute the covenants, conditions, agreements, and stipulations of the contract between the company making the proposal and the Agency named above.

CONTRACT NUMBER: | AGENCY NAME: City of Sacramento | DATE: 11-4-11

SIGNATURE OF AGENCY REPRESENTATIVE: Bernadette Chiek

PROCUREMENT METHOD: (Check One)

Competitive Negotiation ☐ Competitive Sealed Bids ☒ Noncompetitive Negotiation ☐

FOR DOE USE ONLY

This Contract was reviewed for compliance with Title 7 Code of Federal Regulations, Part 226 by:

SIGNATURE: | DATE:

Cathy Schau 11/29/11

Good things come from Sysco

Sysco Sacramento, Inc.
7062 Pacific Avenue
Pleasant Grove, CA 95668
T 916.569.7000
F 916.569.7276

www.syscosac.com

November 15, 2011

Bernadette Cheek
City of Sacramento
Department of Parks & Recreation
915 I St., 3rd Floor
Sacramento, CA 95814

RE: Bid # 121631002 for Child & Adult Care Food Program PM Snack (12.1.11 to 11.30.12)

Dear Bernadette Cheek:

Enclosed, please find the Sysco Sacramento, Inc. quote for the above mentioned bid. Also enclosed is:

1. Sysco Addendums to this bid
2. Certificate of Insurance
3. City of Sacramento's Minimum Delivery Schedule
4. Sysco specification sheet on the items quoted, including (Sysco's item code number (SUPC), the manufacturers' code number (MFG), our complete product description, pack size, and the price per case. This information is solely meant to provide additional information to aid in the award process.)
5. A copy of the bid

This letter, along with the bid package is meant to be part of the official bid response. Should you have any questions regarding this bid, pack sizes, pricing, nutritional specs or need a sample please contact your Account Manager.

Thank you,

Shelly Taunk

Contract Compliance Supervisor
cc: Rhonda Schubert
Greg Linden

Addendum A

Page 13
2. *Submission of Bids*
C: Sysco Sacramento, Inc. is not a food preparation facility, hence will not be submitting a State or Local Health Certificate.

Addendum B

Page 16
Scope of Services
5: Sysco Sacramento, Inc. requires a $500 minimum delivery for each site listed on the delivery tables.. There will be no deliveries for orders below $500 per delivery site.

Addendum C

Page 19
1. Requirements Contract
D. Sysco Sacramento, Inc. requires a minimum order of $500 per site to make a delivery.
2. Pricing
Bid pricing submitted by Sysco Sacramento, Inc. is based on bulk product. Sysco Sacramento, Inc. does not manufacture or produce any food or food related products, we are solely a distribution company and therefore cannot prepackage unitized meals.

Addendum D

Page 20
4. Unit Prices
Please see Addendum C = Bid pricing submitted by Sysco Sacramento, Inc. is based on bulk product. We are not a packaging company and will not be held responsible for prepackaging unitized meals.
7. Noncompliance
At Sysco Sacramento, Inc. we will do our best to purchase product from various sources, however if product is not procured due to production shortages, Sysco Sacramento, Inc. will not be held responsible and will not be liable for any fees and will not pay any excess costs incurred by the City of Sacramento and or the California Dept. of Education.

Addendum E

Page 21
8. Specifications
A: (4) Sysco Sacramento, Inc. will only deliver bulk product listed on Schedule C. Condiments, straws, napkins, single service ware, etc., will need to be purchased separately as bulk product too.

Addendum F

Page 23
5. Inspection of Facility
A: Sysco Sacramento, Inc. is not a food preparation facility and thus is unable to submit to such inspections.

Addendum G

Page 32
Schedule B
CHILD AND ADULT CARE FOOD PROGRAM MEAL PATTERN FOR OLDER CHILDREN
Since Sysco Sacramento, Inc. is solely a distribution company we are unable to certify that the bulk food items we are bidding on meet the minimum requirements stated within Title 7 Code of Federal Regulations.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/24/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA Inc.
1000 Main Street, Suite 3000
Houston, TX 77002
Attn: Ayesha.Mack@Marsh.com

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	Zurich American Insurance Company	02563
INSURER B :	American Zurich Insurance Company	02743
INSURER C :	Steadfast Insurance Company	26387
INSURER D :		
INSURER E :		
INSURER F :		

INSURED
Sysco Sacramento, Inc.
7062 Pacific Avenue
Pleasant Grove, CA 95668

COVERAGES **CERTIFICATE NUMBER:** HOU-001946832-05 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			GLO 2347203 02	06/30/2011	06/30/2012	EACH OCCURRENCE	$ 2,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 2,000,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$ 4,000,000
	X POLICY PRO-JECT LOC							$
A	AUTOMOBILE LIABILITY			BAP 2347204 02	06/30/2011	06/30/2012	COMBINED SINGLE LIMIT (Ea accident)	$ 5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC 2347199 02 AOS	06/30/2011	06/30/2012	X WC STATU-TORY LIMITS / OTH-ER	
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N	N / A		WC 2347201 02 WI	06/30/2011	06/30/2012	E.L. EACH ACCIDENT	$ 1,000,000
A	If yes, describe under DESCRIPTION OF OPERATIONS below			EWS 2347202 02 OH & WA	06/30/2011	06/30/2012	E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Texas Employers Indemnity			EWT 2347222 01	06/30/2011	06/30/2012	General Aggregate	10,000,000
	SIR $2,000,000						Combined Single Limit Per Occ	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City, its officials, employees, and volunteers are included as Additional Insured (except as respects all coverage afforded by the Worker's Compensation policy) where required by written contract, but only for liability arising out of the operations of the Named Insured. This coverage is Primary and Non-Contributory over any existing insurance and limited to liability arising out of the operations of the named insured and where required by written contract.

CERTIFICATE HOLDER

City of Sacramento
Revenue Division
915 I Street, Room 1214
Sacramento, CA 95814

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.
Ryan W. Medlin *Ryan W Medlin*

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Good things come from Sysco

Sysco Sacramento, Inc.
7062 Pacific Avenue
Pleasant Grove, CA 95668
T 916.569.7000
F 916.569.7276

www.syscosac.com

CITY OF SACRAMENTO'S MINIMUM DELIVERY SCHEDULE
BID PERIOD: DECEMBER 1, 2011 to NOVEMBER 30, 2012

Small Order Delivery Charge Matrix

$500 MINIMUM ORDER

DROP SIZE	INVOICE CHARGE
$500.00 or below	No Delivery

City of Sacramento
BID# 121631002
Child Adult Care Food Program

Sysco Specification Sheet

12.1.11 to 11.30.12

Notes	Line #	SUPC	Pack	Size	Brand	Item Description	MFG#	Vendor Name	Bid Price	Unit Price
	1	4221644	60	1 OZ	PEPFARM	CRACKER GOLDFISH CHEESE	7495	CAMPBELL FOOD SERVICE CO	$ 21.60	$ 0.36
	2	7046723	36	200ML	APPLEVE	JUICE APPLE 100%	84526	APPLE & EVE	$ 13.78	$ 0.38
	3	251256	72	1.25OZ	BBRLCLS	PRETZEL MINI TWIST	38162	SUGAR FOODS	$ 19.89	$ 0.28
4.23 oz	4	5945439	40	125ML	APPLEVE	JUICE GRAPE WHT 100%	86004	APPLE & EVE	$ 13.78	$ 0.34
	5	5278718	200	2 PK	KEEBLER	CRACKER GRAHAM HONEY-RITE	38406	KELLOGG FOOD AWAY FROM HOME	$ 23.88	$ 0.12
	6	7046748	36	200ML	APPLEVE	JUICE ORANGE TANGERINE 100%	84523	APPLE & EVE	$ 13.78	$ 0.38
	7	7180144	300	.9 OZ	MJM	CRACKER GRAHAM CHOC BEAR IW	40200	MJM MARKETING INC	$ 50.77	$ 0.17
	8	7046748	36	200ML	APPLEVE	JUICE ORANGE TANGERINE 100%	84523	APPLE & EVE	$ 13.78	$ 0.38
	9	7794844	72	1.16OZ	NABISCO	COOKIE VAN WAFR NILLA MINI	19320-00103	KRAFT FOODS	$ 29.91	$ 0.42
	10	7046735	36	200ML	APPLEVE	JUICE BERRY VERY 100%	84527	APPLE & EVE	$ 13.78	$ 0.38
	11	1772631	300	.9 OZ	MJM	CRACKER GRAHAM STRBY WFFL	40500	MJM MARKETING INC	$ 50.77	$ 0.17
	12	7046723	36	200ML	APPLEVE	JUICE APPLE 100%	84526	APPLE & EVE	$ 13.78	$ 0.38
	13	3067055	300	.9 OZ	MJM	CRACKER GRAHAM LEMON DINOSAUR	40900	MJM MARKETING INC	$ 50.77	$ 0.17
4.23 oz	14	5945439	40	125ML	APPLEVE	JUICE GRAPE WHT 100%	86004	APPLE & EVE	$ 13.78	$ 0.34
	15	8354664	150	1OZ	KEEBLER	COOKIE GRAHAM CHOC ELF	3010040239	KELLOGG FOOD AWAY FROM HOME	$ 47.16	$ 0.31
	16	7046545	36	200ML	APPLEVE	JUICE FRUIT PUNCH 100%	84528	APPLE & EVE	$ 13.78	$ 0.38
	17	8026122	300	.75 OZ	PEPFARM	CRACKER GOLDFISH PRETZEL	14396	CAMPBELL FOOD SERVICE CO	$ 56.55	$ 0.19
	18	7046735	36	200ML	APPLEVE	JUICE BERRY VERY 100%	84527	APPLE & EVE	$ 13.78	$ 0.38

SECTION B

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION, NO SANCTIONS, AND DRUG FREE WORKPLACE

BY SUBMISSION OF THIS BID, THE BIDDER CERTIFIES AND IN THE CASE OF A JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATIONS, THAT IN CONNECTION WITH THIS PROCUREMENT:

1. The prices in this bid have 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 other Bidder or with any competitor.
2. Unless otherwise required by law, the prices that have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to bid opening, directly or indirectly to any other Bidder or to any competitor.
3. No attempt has been made or will be made by the Bidder to induce any person or firm to submit or not to submit a bid for the purpose of restricting competition.
4. Neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

   Where the Bidder is unable to certify to any of the statements in this certification, such Agency shall attach an explanation to this proposal.
5. As required by the state drug-free workplace act of 1990 (Government Code Section 8350 et. Seq.) and the federal Drug-Free Workplace Act of 1988, and implemented at Title 34 Code of Federal Regulations, Part 85, Subpart F, for grantees, as defined at Title 34 Code of Federal Regulations, Part 85, Sections 85.605 and 85.610, the Bidder certifies that it will continue to provide a drug-free workplace.

EACH PERSON SIGNING THIS BID CERTIFIES THAT:

1. He is the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered herein or that he has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated and will not participate, in any action contrary to (1) through (3) above; and
2. He has not participated, and will not participate, in any action contrary to (1) through (3) above.

AND AS THEIR AGENT DOES HEREBY SO CERTIFY:

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE	TITLE	DATE
	Contract Compliance Supervisor	11/10/2011
NAME OF COMPANY: SYSCO SACRAMENTO, INC.		
In accepting this bid, the agency certifies that the agency's officers, employees, or agents have not taken any action that may have jeopardized the independence of the bid referred to above.		
SIGNATURE OF AUTHORIZED AGENCY REPRESENTATIVE	TITLE	DATE
Bernadette Chek	Admin. Analyst	11-4-11

ACCEPTING A BID DOES NOT CONSTITUTE ACCEPTANCE OF THE CONTRACT

NOTE: Authorized representatives of both the agency and bidder must execute this or a similar certificate of independent price determination.

INSTRUCTION TO BIDDERS

1. **Definitions** -- (As used herein):

   (a) The term "Bid" means an offer to perform the work described in the Invitation for Bid at the fixed unit price specified in accordance with the terms and conditions of the solicitation.

   (b) The term "Bidder" means a food service management company submitting a bid in response to this Invitation for Bid.

   (c) The term "Contractor" means the food service management company to whom the bid is awarded and with whom the contractual agreement is executed.

   (d) The term "CDE" means the California Department of Education, Nutrition Services Division.

   (e) The term "Food Service Management Company" means an organization, other than a public or private nonprofit school, with which an agency may contract for preparing, and unless otherwise provided for, delivering meals, with or without milk, for use in the Program.

   (f) The term "Invitation for Bid", hereafter referred to as IFB, means the document soliciting bids through the formal advertising method of procurement. In the case of this Program, the IFB becomes a part of the contract upon acceptance by the Agency, review by CDE, and execution of the contractual agreement.

   (g) The term "Agency" means the Child and Adult Care Food Program agency that issues this IFB.

   (h) The term "Program" means the Child and Adult Care Food Program as set forth in the Title 7 Code of Federal Regulations, Part 226.

   (i) The term "Unitized Meal" means an individual pre-portioned meal consisting of a combination of foods meeting the complete meal requirements, delivered as a unit and served as a unit, with or without milk.

   Other terms shall have the meanings ascribed to them in the Child and Adult Care Food Program, Title 7 Code of Federal Regulations, Part 226.

2. **Submission of Bids**

   (a) Bidders are expected to examine carefully the specifications, schedules, attachments, terms, and conditions of this IFB. Failure to do so shall be at the bidder's own risk.

   (b) Bids shall be executed and submitted in triplicate with one copy being marked "original". If accepted, this IFB will become a part of the contract and one copy of the accepted bid/contract will be forwarded to the successful bidder with the notice of award. The copy marked "original" shall be governing should there be a variance between that "original" copy of the bid and other copies submitted by the bidder. No changes in the specifications or general conditions as presented by the Agency herein are allowed. Erasures on this bid shall be initialed by the bidder prior to submission.

   (c) A copy of a current State or local health certificate for the food preparation facilities shall be submitted with the bid.

   Failure to comply with any of the above shall be reason for rejection of the bid.

3. **Explanation to Bidders**

Any explanation desired by a bidder regarding the meaning or interpretation of the IFB specifications, etc., must be requested in writing prior to bid opening and with sufficient time allowed for a reply to reach all bidders before bid opening. Oral explanations or instructions given before the award of the contract shall not be binding. Any information given to a prospective bidder concerning an IFB shall be furnished to all prospective bidders as an amendment to the IFB if such information is necessary to bidders in submitting bids on the IFB, or if the lack of such information would be prejudicial to uninformed bidders.

4. **Acknowledgment of Amendments to IFBs**

Receipt of an amendment to an IFB by a bidder must be acknowledged by signing and returning the amendment. Such acknowledgment must be received prior to the hour and date specified for bid opening.

5. **Discounts**

Although a blank is provided for a time discount, prompt payment discounts offered for payment in less than twenty calendar days will not be considered in evaluating bids for award. However, offered discounts of less than twenty days will be taken if payment is made within the discount period even though not considered in the evaluation of bids.[1]

6. **Bidders Having Interest in More Than One Bid**

If more than one bid is submitted by any one person, by, or in the name of a clerk, partner, or other person, all such bids shall be rejected.

7. **Time for Receiving Bids**

Sealed bids shall be deposited at the address specified on the IFB of the Agency no later than the exact time and date indicated on the face of this IFB. Bids received prior to the time of opening will be securely kept, unopened.

8. **Errors in Bids**

Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids; failure to do so shall be at the bidder's own risk and he cannot secure relief on the plea of error.

9. **Award of Contract**

(a) The contract will be awarded to that responsive and responsible bidder whose bid will be most advantageous to the Agency, price, and other factors considered. Consideration shall be given to such matters as Contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

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[1] Payment discounts may only be used to determine the low bid when prior experience of the Agency indicates that such discounts are generally taken.

(b) The Agency reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received when there are sound documented business reasons in the best interest of the Program.

(c) The Agency reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete on time contracts of a similar nature, or the bid of a bidder whose investigation shows is not in a position to perform the contract.

10. **Late Bids, Modifications of Bids, or Withdrawals of Bids**

(a) Any bid received after the exact time specified for receipt will not be considered unless it is received before the award is made and it was sent by registered or certified mail, no later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to an IFB requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier).

(b) Any modification or withdrawal of a bid is subject to the same conditions as in (a) above except that withdrawal of bids by telegram is authorized. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modifications, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the date on the postmark is illegible, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means, a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(d) Notwithstanding the above, a late modification of an otherwise successful bid that makes its terms more favorable to the Agency will be considered at any time it is received and may be accepted.

SCOPE OF SERVICES

1. The Contractor agrees to deliver BULK meals ** ---------- exclusive of milk to locations set out in Schedule A, attached hereto and made a part hereof, subject to the terms and conditions of this solicitation.

2. All meals furnished for the Program under this contract must meet or exceed United States Department of Agriculture requirements set out in Schedule B, attached hereto and made a part hereof. All yields of cooked and uncooked products shall conform to yields identified in the United States Department of Agriculture's Food Buying Guide.

3. The Contractor agrees to furnish meals for the Program in accordance with the menu cycle that appears in Schedule C, attached hereto and made a part hereof.

4. The Contractor shall furnish meals for the Program as ordered by the Agency during the period of *** December 1, 2011 to *** November 30, 2012 .

5. The Contractor shall furnish meals for the Program as ordered by the Agency **** 5 days a week.

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* Delete non-applicable meal service type.

** Insert "inclusive" or "exclusive" as applicable.

*** Agency shall insert contract commencement date and expiration date (cannot exceed one year).

**** Agency shall insert appropriate number of serving days.

Unit Price Schedule						Section E
PM Snack						
	Unit Cost	# of Servings per day	Sub total	# of serving days		Grand total
Monday	$0.74	1646	$1,218.04	180		$219,247.20
Tuesday	$0.62	1646	$1,020.52	180		$183,693.60
Wednesday	$0.50	1646	$823.00	180		$148,140.00
Thursday	$0.55	1646	$905.30	180		$162,954.00
Friday	$0.80	1646	$1,316.80	180		$237,024.00
Monday	$0.55	1646	$905.00	180		$162,900.00
Tuesday	$0.51	1646	$839.46	180		$151,102.80
Wednesday	$0.69	1646	$1,135.74	180		$204,433.20
Thursday	$0.57	1646	$938.22	180		$168,879.60
Friday	$0.50	1646	$823.00	180		$148,140.00
						$1,786,514.40

2. **Example**

A. Meal Type[1]	B. Estimated Servings Per Day[2]	C. Estimated Number of Serving Days[3]	D. Unit Price[4]	E. Total Price[5]
Breakfast	20	180	.73	$2,628.00
~~AM Snack~~				
~~Lunch~~				
~~PM Snack~~				
Supper (Unitized Meal)	50	180	.60	$5,400.00
~~Evening Snack~~				

Instructions for completion of the Unit Price Schedule:

[1] The Agency shall indicate which meal types the Contractor will be providing meals for during the contract period (strike-out extraneous meal types in Column A). If unitized meals will be required, the Agency must indicate so by placing "unitized meal" in parenthesis after the meal type.

[2] The Agency shall fill in the estimated number of meals that will be served each day (Column B) by meal type during the contract period.

[3] The Agency shall fill in the number of anticipated operating days that meals will be served (Column C) during the contact period.

[4] The Bidder shall insert the appropriate unit price (Column D) for each meal type indicated by the Agency.

[5] The Bidder shall calculate the total price (Column E) by multiplying B x C x D.

CONTRACT PROVISIONS AND SPECIFICATIONS

1. **Requirements Contract**

   (a) This is a requirements contract for services specified in the Sections and Schedules and for the period set forth herein. The quantities of such services specified herein are estimates only and are not purchased hereby. Except as may be otherwise provided herein, in the event the Agency's requirements for services set forth in the Sections and Schedules do not result in orders in the amounts or quantities described as "estimated" in the Sections and Schedules, such event shall not constitute the basis for an equitable price adjustment under this contract.

   (b) The Agency shall not be required to purchase from the Contractor requirements in excess of the limit on total orders under this contract, if any.

   (c) The Agency may issue orders that provide for delivery or performance at multiple destinations.

   (d) The Agency shall not be obligated to place any minimum dollar amount of orders under this contract or any minimum number of orders. The utilization of the Contractor for services specified in the Sections and Schedules will be dependent upon the needs and requirements of the Agency.

   (e) Regulatory or guidance changes prescribed by the United States Department of Agriculture or CDE, during the duration of this contract, shall be considered a basis for renegotiation with prior approval and agreement from CDE, of the terms and conditions of the contract between the Agency and the Contractor. Authority for such renegotiation must be requested from CDE, in writing by the Agency, prior to the commencement of any such renegotiation.

2. **Pricing**

   Pricing shall be on the numbers described in Section E, "Unit Price Schedule". All bidders must submit bids on the same menu cycle provided by the Agency. Bid prices must include the price of food, milk (if applicable), packaging, transportation, and all other related costs (e.g., condiments, utensils, etc.) that are essential to the content of the food service.

3. **Evaluation of Bidders**

   Each bidder will be evaluated on the following factors:

   (a) Financial capability to perform a contract of the scope required.

   (b) Adequacy of plant facilities for food preparation, with approved licensing certification that facilities meet all applicable State and local health, safety, and sanitation standards.

   (c) Previous experience performing services similar in nature and scope.

   (d) Other factors such as transportation capability, sanitation, and packaging.

   Bidders that do not satisfactorily meet the above criteria may be rejected as unresponsive and not considered for award.

4. **Unit Prices**

The unit prices of each meal type that the bidder agrees to furnish must be written in ink or typed in the blank space provided in Section E of the Unit Price Schedule, including proper packaging as required in the specifications, and the costs of delivery to the designated sites. Unit prices shall include taxes; but, any charges or taxes that are required to be paid under future laws must be paid by the bidder at no additional charge to the Agency.

5. **Meal Orders**

The Agency will order meals Bi-Weekly of the week preceding the week of delivery; orders will be placed for the total number of days in the succeeding week, and will include breakdown totals for each center and each type of meal.

The Agency reserves the right to increase or decrease the number of meals ordered on a ** 72 hour notice (or less if mutually agreed upon between the parties to this contract).

6. **Menu-Cycle Change Procedure**

Meals shall be delivered on a daily basis in accordance with the menu cycle which appears in Schedule C. Deviation from this menu cycle shall be permitted only upon authorization of the Agency. When an emergency situation prevents the Contractor from delivering a specified meal component, the Contractor shall notify the Agency immediately so substitutions can be agreed upon. The Agency reserves the right to periodically suggest menu changes that are within the Contractor's food cost.

7. **Noncompliance**

The Agency reserves the right to inspect and determine the quality of food delivered and reject any meals that do not comply with the requirements and specifications of the contract. The Contractor shall not be paid for unauthorized menu changes, incomplete meals, meals not delivered within the specified delivery time period, and meals rejected because they do not comply with the specifications. The Agency reserves the right to obtain meals from other sources if meals are rejected due to any of the stated reasons. The Contractor shall be responsible for any excess cost, but will receive no adjustment in the event the meals are procured at a lesser cost. The Agency or agency representative inspecting shall notify the Contractor in writing as to the number of meals rejected and the reasons for rejection.

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* Indicate the day of the week orders for the next week will be placed.

** Time frame should be no longer than 24 hours.

8. **Specifications**

(a) Packaging

(1) Hot Meal Unit-Packaging shall be suitable for maintaining meals in accordance with local health standards. Container and overlay should have an airtight closure, be of non-toxic material, and be capable of withstanding temperatures of 400°F (204°C) or higher.

(2) Cold Meal Unit or Unnecessary-to-Heat Container and overlay shall be plastic or paper and non-toxic.

(3) Cartons - Each carton shall be labeled. The label shall include:

A. The processor's (plant) name and address

B. Item identity and meal type

C. Date of production

D. Quantity of individual units per carton

(4) Meals shall be delivered with the following non-food items: condiments, straws, napkins, single service ware, etc.*

(b) Food Preparation

Meals shall be prepared under properly controlled temperatures and assembled not more than 24 hours prior to delivery.

(c) Food Specifications

Bids are to be submitted on the menu cycle included as Schedule C and shall include, at a minimum, the portions specified by the U. S. Department of Agriculture for each meal, which are included in Schedule B of this IFB.

All meat and meat products, except sausage products, shall have been slaughtered, processed, and manufactured in plants inspected under a U. S. Department of Agriculture approved inspection program and bear the appropriate seal. Upon delivery, all meat and meat products must be sound, sanitary, and free of objectionable odors or signs of deterioration.

(d) Product Specifications

Milk and milk products are defined as "...fluid types of pasteurized flavored or unflavored whole milk or low-fat milk, or skim milk or cultured buttermilk, which meets State and local standards for such milk..." Milk delivered hereunder shall conform to these specifications.

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* The Agency shall insert or delete non-food items that are necessary for the meal to be eaten.

GENERAL CONDITIONS

1. **Delivery Requirements**

   (a) Deliveries shall be made by the Contractor to each center listed on the Schedule A in accordance with the order from the Agency.

   (b) Meals shall be delivered, unloaded, and placed in the designated center daily by the Contractor's personnel at each of the locations and times listed on the Schedule A.

   (c) The Contractor shall be responsible for the delivery of all meals and dairy products at the specified time. Adequate refrigeration or heating shall be provided during the transportation and delivery of all food to insure the wholesomeness of food at delivery in accordance with State or local health codes.

   (d) The Agency reserves the right to **add or delete centers**. This shall be done by amendment of the Schedule A. The Agency shall notify the Contractor of such amendments to the Schedule A not less than one week prior to the required date of service. Any changes in transportation costs that occur as a result of adding or deleting centers shall be negotiated and noted in the modification. The Contractor's invoice shall show the cost as a separate item for that center.

2. **Supervision and Inspection**

   The Contractor shall provide management supervision at all times and maintain constant quality control inspections to check for portion size, appearance, and packaging, in addition to the quality of products.

3. **Record Keeping**

   (a) Delivery tickets must be prepared by the Contractor with a minimum of three copies -- one for the Contractor, one for center personnel, and one for the Agency. Delivery tickets must be itemized to show the number of meals of each type delivered to each center. Designees of the Agency at each center will check the adequacy of the delivery and the meals before signing the delivery ticket. Invoices shall be accepted by the Agency only if they accurately represent the delivery tickets signed by the Agency's designee at the center.

   (b) The Contractor shall maintain records supported by delivery tickets, purchase orders, and production records for this contract or other evidence for inspection and reference to support payments and claims.

   (c) The books and records of the Contractor pertaining to this contract shall be available for a period of three years from the date the Agency submits to CDE the final claim for reimbursement for meals provided under this contract, or until the final resolution of any audits for inspection and audit by representatives of CDE, the U. S. Department of Agriculture, the Agency, and the Controller General of the United States at any reasonable time and place.

4. **Method of Payment**

The Contractor shall submit its itemized invoice to the Agency * Monthly- . Each invoice shall give a detailed breakdown of the number of meals delivered and signed for at each center during the preceding ** month . Payment will be made at the unit price specified in the contract. No payment shall be made unless the required delivery receipts have been signed by the center representative of the Agency.

5. **Inspection of Facility**

(a) The Agency, CDE, and the U.S. Department of Agriculture reserve the right to inspect the Contractor's preparation facilities prior to award and without notice at any time during the contract period, including the right to be present during preparation and delivery of meals.

(b) The Contractor's facilities shall be subject to periodic inspections by the U.S. Department of Agriculture, State and local health departments, or any other agency designated to inspect meal quality for the State. This will be accomplished in accordance with U.S. Department of Agriculture regulations.

(c) The Contractor shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being prepared, transported, and delivered. Such levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other establishments in the locality.

REQUIREMENTS FOR
CERTIFICATES OF INSURANCE

1) The City of Sacramento requires all certificates of insurance to be submitted on a standard Acord form or on the insurance company's letterhead. The City does not accept declaration pages. The named additional insured endorsement signed by an authorized representative of the insurance carrier must accompany the certificate of insurance.

2) The Insurance Company must either be licensed to do business in the State of California or have a Best Guide Rating of A-VII or better.

3) The City of Sacramento must be listed as the certificate holder as well as an additional insured with respects to General Liability and Automobile Liability.. For example, "The City of Sacramento, its officials, agents, employees & volunteers".

4) The City of Sacramento does not accept California Assigned Risk until it is accepted by a valid insurance company which meets the requirements in number (1) above, and is on a standardized Certificate of Insurance form with a valid policy number.

5) The City of Sacramento requires a valid policy number to be provided by an insurance company that meets the requirements listed above. The City does not accept "binder numbers", "pending", "TBD", "to follow", "to be announced".

6) The City of Sacramento requires a 30-Day written notice of cancellation to be designated on the certificate of insurance.

7) The Certificate of Insurance must be signed by a legitimate agent.

6. **Availability of Funds**

The Agency shall have the option to cancel this contract if the Federal Government withdraws funds to support the Child and Adult Care Food Program. It is further understood that, in the event of cancellation of the contract, the Agency shall be responsible for meals that have already been assembled and/or delivered in accordance with this contract.

7. **Number of Meals and Delivery Times**

The Contractor must provide the exact number of meals ordered. Counts of meals will be made at all centers before meals are accepted. Damaged or incomplete meals shall not be included when the number of delivered meals is determined.

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* Insert weekly, biweekly, or monthly as applicable.

** Insert week, two weeks, or month to correspond to (*) above.

*** Agencies may insert their own insurance or bonding requirements or specifications as applicable.

8. Emergencies

In the event of unforeseen emergency circumstances, the Contractor shall immediately notify the Agency by telephone or telegram of the following: (a) the impossibility of on-time delivery; (b) the circumstance(s) precluding delivery; and (c) a statement of whether or not succeeding deliveries will be ~~affected. No payments will be made for deliveries made later than ****~~ _____ ~~hour(s) after specified mealtime.~~ Emergency circumstances at the center precluding utilization of meals are the concern of the Agency. The Agency may cancel orders provided it gives the Contractor at least ***** 36 hours notice. Adjustments for emergency situations affecting the Contractor's ability to deliver meals, or the Agency's ability to utilize meals for periods longer than 24 hours will be mutually worked out between the Contractor and the Agency.

9. Termination

(a) The Agency reserves the right to terminate this contract if the Contractor fails to comply with any of the requirements of this contract. The Agency shall notify the Contractor of specific instances of noncompliance in writing. In instances where the Contractor has been notified of noncompliance with the terms of the contract and has not taken immediate corrective action, the Agency shall have the right upon written notice to immediately terminate the contract and the Contractor shall be liable for any damages incurred by the Agency. The Agency shall negotiate a repurchase contract on a competitive basis to arrive at a fair and reasonable price.

(b) The Agency shall by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found by the Agency that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor to any officer or employee of the Agency, with a view toward securing the contract or securing favorable treatment with respect to the awarding or amending of the contract; provided that the existence of the facts upon which the Agency makes such findings shall be in issue and may be reviewed in any competent court.

(c) In the event this contract is terminated as provided in paragraph (b) hereof, the Agency shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages in an amount which shall not be less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

(d) The rights and remedies of the agencies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

10. Subcontracts and Assignments

The Contractor shall not subcontract with any other company for the total meal, with or without milk, or for the assembly of the meal; and shall not assign, without the advance written consent of the Agency, this contract or any interest therein. In the event of any assignment, the Contractor shall remain liable to the Agency as principal for the performance of all his obligations under this contract.

**** Time frame should be no longer than 2 hours.

***** Time frame should be no longer than 48 hours.

11. Equal Opportunity

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (Title 41 Code of Federal Regulations, Chapter 60.)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not unlawfully discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex.

The Contractor will take affirmative action to ensure that the evaluation and treatment of his employees and applicants for employment are free of such discrimination. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and his subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

(b) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(c) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further State or federally funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

GENERAL PROVISIONS FOR CONTRACTS EXCEEDING $100,000

THE FOLLOWING PROVISIONS ARE APPLICABLE ONLY IF THE CONTRACT EXCEEDS $100,000 OR THE AGENCY OFFICIAL HAS DETERMINED THAT THE ORDERS UNDER AN INDEFINITE QUANTITY CONTRACT IN ANY ONE YEAR WILL EXCEED $100,000, OR A FACILITY TO BE USED HAS BEEN THE SUBJECT OF A CONVICTION UNDER THE CLEAN AIR ACT [41 USC 1857c-8(c)(1)], OR THE FEDERAL WATER POLLUTION CONTROL ACT [33 USC 1319(c)], AND IS LISTED BY ENVIRONMENTAL PROTECTION AGENCY, OR THE CONTRACT IS NOT OTHERWISE EXEMPT FROM THESE PROVISIONS.

Clean Air and Water

The Contractor agrees as follows:

1. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 USC 1857, et seq., as amended by Public Law 91-604), and all requirements adopted pursuant to Division 26 of the California Health and Safety Code, Section 39000, et seq., respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements so specified, and all regulations and guidelines issued thereunder before the award of this contract.

2. To comply with all the requirements of Section 308 of the Federal Water Pollution Control Act (33 USC 1251, et seq., as amended by Public Law 92-500) and all requirements adopted pursuant to the Porter-Cologne Water Quality Control Act (California Water Code, Division 7, Section 13000, et seq.), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Acts, and all regulations and guidelines issued thereunder before the award of this contract.

3. That no portion of the work required by this contract will be performed at a facility listed on the EPA List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

4. To use his best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

5. To insert the substance of the provisions of this clause in any nonexempt subcontract including this paragraph 1(e).

Energy Policy and Conservation Act (P.L. 94-163)

The Contractor agrees to comply with all mandatory standards and policies relating to energy efficiency as contained in the California Administrative Code, Title 24, pursuant to the California State energy efficiency conservation plan issued in compliance with Public Law 94-163.

N/A

CLEAN AIR AND WATER CERTIFICATION

THIS CERTIFICATION IS APPLICABLE IF BID OR OFFER EXCEEDS $100,000 OR THE AGENCY OFFICIAL HAS DETERMINED THAT ORDERS UNDER AN INDEFINITE QUANTITY CONTRACT IN ANY YEAR WILL EXCEED $100,000, OR A FACILITY TO BE USED HAS BEEN THE SUBJECT OF A CONVICTION UNDER THE CLEAN AIR ACT [42 USC 1857c-8(c)(1)], OR THE FEDERAL WATER POLLUTION CONTROL ACT [33 USC 1319(c)], AND IS LISTED BY EPA, OR IS NOT OTHERWISE EXEMPT.

The Bidder certifies as follows:

1. Any facility to be utilized in the performance of this proposed contract

   has ☐ has not ☐

   been listed on the Environmental Protection Agency List of Violating Facilities.

2. He will promptly notify the Agency Official, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, U. S. Environmental Protection Agency, indicating that any facility that he proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

3. He will include substantially this certification, including this paragraph (3.) in every nonexempt subcontract.

NAME OF COMPANY		
SIGNATURE OF AUTHORIZED REPRESENTATIVE	TITLE	DATE

CHILD AND ADULT CARE FOOD PROGRAM
INVITATION FOR BID AND CONTRACT – DELIVERY

SCHEDULE A

CENTERS WHERE PROGRAM WILL OPERATE

NAME OF CENTER	ADDRESS AND TELEPHONE NUMBER	AUTHORIZED DESIGNEE	TYPES OF MEALS	NUMBER OF EACH MEAL TYPE NEEDED	DELIVERY TIME FOR EACH MEAL TYPE	BEGINNING AND ENDING DATES OF PROGRAM AT EACH CENTER
START Warehouse	8178 Belvedere Avenue Sacramento, CA 916-808-7378	Brian Fitzgerald	PM Snack	As needed on emergency basis	As needed on emergency basis	12/1/11-11/30/12
D.W. Babcock ES	2400 Cormorant Way Sacramento, CA 95815 916-826-0120	Brian Fitzgerald	PM Snack	63	12 PM	12/1/11-11/30/12
Del Paso Heights ES	590 Morey Avenue, Sacramento, CA 95838 916-826-9282	Brian Fitzgerald	PM Snack	92	12 PM	12/1/11-11/30/12
Dry Creek ES	1230 G Street, Rio Linda, CA 95673 916-919-6554	Brian Fitzgerald	PM Snack	84	12 PM	12/1/11-11/30/12
Frontier ES	6691 Silverthorne Circle, Sacramento, CA 95842 916-826-9312	Brian Fitzgerald	PM Snack	84	12 PM	12/1/11-11/30/12

Garden Valley ES	3601 Larchwood Dr. Sacramento, CA 95834 916826-5990	Brian Fitzgerald	PM Snack	84	12 PM	12/1/11-11/30/12
Orchard ES	1040 Q St., Rio Linda, CA 95673 916-919-3159	Brian Fitzgerald	PM Snack	84	12 PM	12/1/11-11/30/12
Sierra View ES	3638 Bainbridge Dr., North Highlands, CA 95660 916-826-9291	Brian Fitzgerald	PM Snack	103	12 PM	12/1/11-11/30/12
Village ES	6845 Larchmont Dr. North Highlands, CA 95660 916-826-0648	Brian Fitzgerald	PM Snack	84	12 PM	12/1/11-11/30/12
Wood Ridge ES	5761 Brett Drive, Sacramento, CA 95842 916-826-1199	Brian Fitzgerald	PM Snack	88	12 PM	12/1/11-11/30/12
Isabelle Jackson ES	8351 Cutler Way, Sacramento, CA 95828 916-826-9294	Brian Fitzgerald	PM Snack	97	12 PM	12/1/11-11/30/12
John Reith ES	8401 Valley Lark Drive, Sacramento, CA 95823 916-826-7803	Brian Fitzgerald	PM Snack	140	12 PM	12/1/11-11/30/12
American Lakes ES	2800 Stonecreek Drive, Sacramento, CA 95833 916-826-9263	Brian Fitzgerald	PM Snack	125	12 PM	12/1/11-11/30/12
Bannon Creek ES	2775 Millcreek Dr., Sacramento, CA 95833 916-826-9265	Brian Fitzgerald	PM Snack	118	12 PM	12/1/11-11/30/12
Bell Avenue ES	1900 Bell Avenue, Sacramento, CA 95838	Brian	PM Snack	80	12 PM	12/1/11-11/30/12

	916-825-5798	Fitzgerald				
Glennwood ES	201 Jessie Ave., Sacramento, CA 95838 916-825-5838	Brian Fitzgerald	PM Snack	80	12 PM	12/1/11-11/30/12
Main Avenue ES	1400 Main Avenue, Sacramento, CA 95838 916-825-5849	Brian Fitzgerald	PM Snack	80	12 PM	12/1/11-11/30/12
Robola ES	5200 Rose Street, Sacramento, CA 95838 916-825-5850	Brian Fitzgerald	PM Snack	80	12 PM	12/1/11-11/30/12
Taylor Street ES	4350 Taylor Street, Sacramento, CA 95838 916-826-2245	Brian Fitzgerald	PM Snack	80	12 PM	12/1/11-11/30/12

N/A

SCHEDULE B

CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR OLDER CHILDREN

VENDOR #:
AGREEMENT #:

NSD 2050B (REV. 07/03)

BREAKFAST	AGES ONE THROUGH THREE YEARS	AGES THREE THROUGH SIX YEARS	AGES SIX THROUGH TWELVE YEARS
MILK, FLUID	½ CUP	¾ CUP	1 CUP
VEGETABLE, FRUIT OR FULL-STRENGTH (100%) JUICE	¼ CUP	½ CUP	½ CUP
GRAINS/BREADS (WHOLE GRAIN OR ENRICHED): BREAD *OR* ROLLS, MUFFINS, ETC., *OR* COLD DRY CEREAL (VOLUME OR WEIGHT, WHICHEVER IS LESS) *OR* COOKED CEREAL, PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS	½ SLICE ½ SERVING ¼ CUP *OR* ⅓ OZ. ¼ CUP	½ SLICE ½ SERVING ⅓ CUP *OR* ½ OZ. ¼ CUP	1 SLICE 1 SERVING ¾ CUP *OR* 1 OZ. ½ CUP
LUNCH OR SUPPER			
MILK, FLUID	½ CUP	¾ CUP	1 CUP
VEGETABLE AND/OR FRUIT (TWO OR MORE KINDS)	¼ CUP TOTAL	½ CUP TOTAL	¾ CUP TOTAL
GRAINS/BREAD (WHOLE GRAIN OR ENRICHED): BREAD *OR* ROLLS, MUFFINS, ETC., *OR* COOKED PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS	½ SLICE ½ SERVING ¼ CUP	½ SLICE ½ SERVING ¼ CUP	1 SLICE 1 SERVING ½ CUP
MEAT/MEAT ALTERNATES LEAN MEAT, FISH, OR POULTRY (EDIBLE PORTION AS SERVED) *OR* CHEESE (NATURAL OR PROCESSED) *OR* COTTAGE CHEESE, CHEESE FOOD/CHEESE SPREAD SUBSTITUTE *OR* EGG (LARGE) *OR* COOKED DRIED BEANS OR DRIED PEAS * *OR* PEANUT BUTTER, REDUCED-FAT PEANUT BUTTER, SOY NUT BUTTER, OR OTHER NUT OR SEED BUTTERS *OR* PEANUTS, SOY NUTS, TREE NUTS, ROASTED PEAS, OR SEEDS** *OR* YOGURT, PLAIN OR FLAVORED, UNSWEETENED OR SWEETENED *OR* AN EQUIVALENT QUANTITY OF ANY COMBINATION OF THE ABOVE MEAT/MEAT ALTERNATES.	1 OZ. 1 OZ. ¼ CUP *OR* 2 OZ. 1 EGG ¼ CUP 2 TBSP ½ OZ.** ½ CUP	1-½ OZ. 1-½ OZ. ⅜ CUP *OR* 3 OZ. 1 EGG ⅜ CUP 3 TBSP ¾ OZ.** ¾ CUP	2 OZ. 2 OZ. ½ CUP *OR* 4 OZ. 1 EGG ½ CUP 4 TBSP 1 OZ.** 1 CUP
AM OR PM SUPPLEMENT (SELECT TWO OF THESE FOUR COMPONENTS)* **			
MILK, FLUID	½ CUP	½ CUP	1 CUP
VEGETABLE, FRUIT, OR FULL-STRENGTH (100%) JUICE	½ CUP	½ CUP	¾ CUP
GRAINS OR BREADS (WHOLE GRAIN OR ENRICHED): BREAD *OR* ROLLS, MUFFINS, ETC. *OR* COLD DRY CEREAL (VOLUME OR WEIGHT, WHICHEVER IS LESS) *OR* COOKED CEREAL, PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS.	½ SLICE ½ SERVING ¼ CUP *OR* ⅓ OZ. ¼ CUP	½ SLICE ½ SERVING ⅓ CUP *OR* ½ OZ. ¼ CUP	1 SLICE 1 SERVING ¾ CUP *OR* 1 OZ. ½ CUP
MEAT/MEAT ALTERNATES LEAN MEAT, FISH, OR POULTRY (EDIBLE PORTION AS SERVED) *OR* CHEESE (NATURAL OR PROCESSED) *OR* COTTAGE CHEESE, CHEESE FOOD/CHEESE SPREAD SUBSTITUTE *OR* EGG (LARGE) *OR* YOGURT, PLAIN OR FLAVORED, UNSWEETENED OR SWEETENED**** *OR* COOKED DRIED BEANS OR DRIED PEAS* *OR* PEANUT BUTTER, REDUCED-FAT PEANUT BUTTER, SOY NUT BUTTER, OR OTHER NUT OR SEED BUTTERS *OR* PEANUTS, SOY NUTS, TREE NUTS, ROASTED PEAS, OR SEEDS *OR* AN EQUIVALENT QUANTITY OF ANY COMBINATION OF THE ABOVE MEAT/MEAT ALTERNATES.	½ OZ. ½ OZ. ⅛ CUP *OR* 1 OZ. ½ EGG ¼ CUP ⅛ CUP 1 TBSP ½ OZ.	½ OZ. ½ OZ. ⅛ CUP *OR* 1 OZ. ½ EGG ¼ CUP ⅛ CUP 1 TBSP ½ OZ.	1 OZ. 1 OZ. ¼ CUP *OR* 2 OZ. 1 EGG ½ CUP ¼ CUP 2 TBSP 1 OZ.

CERTIFICATION

I hereby certify that all meals claimed shall meet the minimum requirements set forth in the meal pattern for older children as prescribed by Title 7 Code of Federal Regulations, Part 226.20 and as outlined in Schedule B, NSD 2050B.

SIGNATURE OF AUTHORIZED REPRESENTATIVE	TITLE	DATE

AGENCY NAME

AGENCY ADDRESS

CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR OLDER CHILDREN

* DRIED BEANS OR DRIED PEAS MAY BE USED AS A MEAT ALTERNATE OR AS A VEGETABLE COMPONENT; BUT **CANNOT** BE COUNTED AS BOTH COMPONENTS IN THE SAME MEAL.

** NO MORE THAN 50 PERCENT OF THE REQUIREMENT SHALL BE MET WITH NUTS OR SEEDS. NUTS OR SEEDS SHALL BE COMBINED WITH ANOTHER MEAT/MEAT ALTERNATE TO FULFILL THE REQUIREMENT. TO DETERMINE COMBINATIONS, 1 OZ. OF NUTS OR SEEDS IS EQUAL TO 1 OZ. OF COOKED LEAN MEAT, POULTRY, OR FISH. ROASTED PEAS CAN COUNT AS A MEAT ALTERNATE OR VEGETABLE COMPONENT, BUT CANNOT BE COUNTED AS BOTH IN THE SAME MEAL.

*** JUICE **CANNOT** BE SERVED WHEN MILK IS SERVED AS THE ONLY OTHER COMPONENT.

**** IF YOGURT IS USED AS THE MEAT COMPONENT IN SUPPLEMENTS, MILK **CANNOT** BE USED TO SATISFY THE SECOND COMPONENT REQUIREMENT. COMMERCIALLY ADDED FRUIT OR NUTS IN FLAVORED YOGURT **CANNOT** BE USED TO SATISFY THE SECOND COMPONENT REQUIREMENT IN SUPPLEMENTS.

CHILD AND ADULT CARE FOOD PROGRAM **SCHEDULE C**
INVITATION FOR BID AND CONTRACT – DELIVERY

MENU CYCLE – PM Snack

FOOD COMPONENTS	SERVING SIZE	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Meat/Alternate Bread/Alternate Vegetable/Fruit Total V/F = 1 cup} Vegetable/Fruit Milk, Fluid Other	2 oz. 2 slices/2 oz. ____ c. ____ c. 1 cup	Cheddar Cheese Whales 1oz $0.36 100% Apple Juice 6.75 oz $0.38	Mini Pretzels 1 oz $0.28 100% Grape Juice ~~6.75~~ oz $0.34 4.23 oz	Honey Grams 1 oz $0.12 100% Orange Tang Juice 6.75 oz $0.38	Chocolate Bear Grahams 1 oz $0.17 100% Apple Juice 6.75 oz $0.38	Vanilla Cream Cookies 1 oz $0.42 100% Strawberry Banana Juice 6.75 oz FLAVOR NOT AVAILABLE. ALTERNATE: VERY BERRY $0.38
Meat/Alternate Bread/Alternate Vegetable/Fruit Total V/F = 1 cup} Vegetable/Fruit Milk, Fluid Other	2 oz. 2 slices/2 oz. ____ c. ____ c. 1 cup	Strawberry Waffle Grahams 1 Oz $0.17 100 % Apple Juice 6.75 oz $0.38	Lemon Bear Grahams 1 oz $0.17 100% Grape Juice ~~6.75~~ oz $0.34 4.23 oz	Elf Grahams 1 oz $0.31 100 % Tropical Fruit Punch 6.75 oz $0.38	Goldfish Pretzel 1 oz. $0.19 100% Strawberry Banana Juice 6.75 oz FLAVOR NOT AVAILABLE. ALTERNATE: VERY BERRY $0.38	Honey Grams 1 oz. $0.12 100% Orange Tang Juice 6.75 oz $0.38
Meat/Alternate Bread/Alternate Vegetable/Fruit Total V/F = 1 cup} Vegetable/Fruit Milk, Fluid Other	2 oz. 2 slices/2 oz. ____ c. ____ c. 1 cup					
Meat/Alternate Bread/Alternate Vegetable/Fruit Total V/F = 1 cup} Vegetable/Fruit Milk, Fluid Other	2 oz. 2 slices/2 oz. ____ c. ____ c. 1 cup					
Meat/Alternate Bread/Alternate Vegetable/Fruit Total V/F = 1 cup} Vegetable/Fruit Milk, Fluid Other	2 oz. 2 slices/2 oz. ____ c. ____ c. 1 cup					

AGENCY CONTRACT DOCUMENTS

GENERAL CONDITIONS

1. Independent Contractor.

A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)

B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.

C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

D. The provisions of this Section 1 shall survive any expiration or termination of this

Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.

3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.

4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.

5. **Conflict of Interest.** CONTRAC TOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.

6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets

of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. CONTRACTOR Information.

A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.

B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.

C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.

D. The parties understand and agree that any failure by CONTRACTOR to respond

to the notice provided by CITY and/or to enter into an agreement with CITY, in accordance with the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. **Standard of Performance.** CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.

9. **Term; Suspension; Termination.**

A. Termination for Cause. If the City determines that the Contractor's performance is not satisfactory, and notifies the Contractor of such determination in writing, the Contractor shall correct the unsatisfactory condition(s) within 5 days after receiving such notification. If the Contractor fails to correct the unsatisfactory condition(s) within 5 days, the City may declare the Contract terminated upon 30 days written notice and may, in the City's sole discretion, demand performance by the Contractor's surety, if any, or contract for performance of all or part of the remainder of Contract with another contractor. In the event two such notices of unsatisfactory performance are given in any calendar year, and in the event that Contractor shall again fail to satisfactorily perform pursuant to the Contract, City may thereupon terminate the Contract immediately, with no prior notice. In the event of termination hereunder, the Contractor and/or its surety shall be liable and assessed for any and all costs for re-procurement and completion of the Contract.

B. Termination for Convenience. The City may terminate the Contract, in whole or in part, for its convenience and without cause upon giving written notice to the Contractor. The City shall pay all reasonable costs associated with the Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with such termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned, or any other costs, which have not been incurred, as of the date of termination.

C. Termination After Completion Date. If the Contractor fails to complete its performance of the Contract within the time specified in the Contract (including any approved extension of such time), if any, the Contract may be terminated

and, in the event of such termination, the Contractor shall not be paid or allowed any further compensation for any costs incurred after such termination. The City may thereafter proceed to complete the Contract either by rebidding or otherwise, the Contractor and its surety, if any, shall be liable to the City for all loss or damage that the City may suffer on account of the Contractor's failure to complete the Contract on time. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

10. Indemnity.

A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by CONTRACTOR, any subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of CITY, its agents, servants, or independent contractors who are directly responsible to CITY, except when such agents, servants, or independent contractors are under the direct supervision and control of CONTRACTOR.

B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

11. Insurance Requirements. During the entire term of this Agreement, CONTRACTOR shall maintain the insurance coverage described in this Section 11.

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums.

It is understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the CONTRACTOR in connection with this Agreement.

A. Minimum Scope & Limits of Insurance Coverage

(1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

(2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CONTRACTOR.

No automobile liability insurance shall be required if CONTRACTOR completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." H/A (CONTRACTOR initials)

(3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars ($1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

✓ Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CONTRACTOR.

No Workers' Compensation insurance shall be required if CONTRACTOR completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." H/A (CONTRACTOR initials)

B. Additional Insured Coverage

(1) Commercial General Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured's as respects general liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and premises owned,

leased or used by CONTRACTOR. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

_____ Additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

(2) Automobile Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured's as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(1) CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

(2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.

(3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 11 must be declared to and approved by the CITY Risk Management Division in writing prior to execution of this Agreement.

E. Verification of Coverage

(1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative

of the insurance carrier.

(2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

CONTRACTOR shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. Equal Employment Opportunity. During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".

B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award

and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.

D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:

(1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;

(2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

13. **Entire Agreement.** The Contract Documents contain the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Contract. No alteration to the terms of this Contract shall be valid unless approved in writing by Contractor, and by City, in accordance with applicable provisions of the Sacramento City Code. In the event of any conflict among the provisions of different Contract Documents, the conflict shall be resolved by giving precedence to the Contract Documents in the following order:

A. Post-Award Amendments.
B. Pricing Schedule(s), as corrected by City, if applicable.
C. Pre-Award Addenda
D. Special Provisions.
E. Bid Instructions and Requirements
F. General Conditions
G. Technical Specifications and/or Plans

14. **Severability**. If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation

arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.

18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.

19. **Compliance with Laws.** The Contractor shall be responsible for strict compliance with all applicable laws, regulations, court orders and other legal requirements applicable to the work to be accomplished pursuant to the Contract, including without limitation the California Occupational Safety and Health Act and all applicable safety orders issued by the Division of Occupational Safety and Health, Department of Industrial Relations, State of California, and all applicable requirements of Underwriters Laboratories and the Federal Communication Commission.

20. **Inspection.** Merchandise will be inspected before acceptance by an authorized representative of the City of Sacramento for workmanship, appearance, proper functioning of all equipment and systems and conformance to all other requirements of the Contract. If deficiencies are found, it shall be the responsibility of the Contractor to pick up the merchandise, make necessary correction and redeliver the merchandise for re-inspection and acceptance. Payment and/or commencement of discount period (if applicable) will not be made until corrective action has been made.

21. **Funding Availability.**

    A. The Contract is subject to the budget and fiscal provisions of the Charter and City Code of the City of Sacramento.

    B. The City's payment obligation under the Contract shall not at any time exceed the amount of funds appropriated and approved for such purpose by the Sacramento City Council.

    C. The Contract shall terminate without penalty at the end of the fiscal year in the event funds to make payment under the Contract are not appropriated and approved for such purpose by the City Council for the succeeding fiscal year. If such funds are appropriated for only a portion of the fiscal year this Contract shall terminate, without penalty, at the end of the term for which funds have been appropriated. In the event of such termination, the Contractor shall not be entitled to recover any costs incurred after termination, subject, further, to the limitation in subsection 11.B. of these General Conditions.

D. Notwithstanding any provision of the Contract Documents to the contrary, this section shall govern over any other provision of the Contract.

22. **Inspection of Facilities.** If requested by the City, the Contractor shall provide City with an inspection tour of Contractor's facilities at the location where the work under the Contract will be accomplished.

23. **Material Safety Data Sheets (MSDS).** It is mandatory for a manufacturer, Contractor or distributor to supply a MSDS with the first shipment of any hazardous material. Also at any time the content of an MSDS is revised, the Contractor shall provide new information relevant to the specific material.

24. **Notification of Material Changes in Business**. Contractor agrees that if it experiences any material changes in its business including, without limitation, a reorganization, refinancing, restructuring, leveraged buyout, bankruptcy, loss of key personnel, etc., it will immediately notify the City of the changes. Contractor also agrees to immediately notify the City of any condition which may jeopardize the scheduled delivery or fulfillment of Contractor's contractual obligations to the City. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Procurement Services Division reserves the right at its sole discretion to terminate the Contract either for cause or for convenience as provided in Section 9 of these General Conditions.

25. **Payment and Invoicing.** Unless otherwise specified in the Contract Documents, payment for services rendered or materials provided and accepted by City will be made monthly, in arrears, after receipt of a proper invoice.

26. **Protection of Existing Facilities.** Contractor shall take every precaution to protect all public and private property during the performance of the Contract. Any damages caused by Contractor's personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Contractor.

27. **Guarantee.** By submitting its bid, the Contractor guarantees that all merchandise delivered and/or work or services performed under the Contract shall meet the minimum requirements set forth herein. If it is determined by the City that the merchandise delivered or work or services performed do not meet the minimum requirements of the Contract, the Contractor shall be required to correct the same at Contractor's sole expense.