

Upper Merion Area School District (UMASD) IFB

GENERAL CONDITIONS AND SPECIFICATIONS

BID ITEM: Milk

Two Year Bid- the initial term of this bid shall commence on August 3, 2021 and terminate on August 2, 2023

BID DUE: July 23, 2021 by 10:00 a.m.

**Penny Bartlett, M.S., R.D., L.D.N.
She/Her/Hers
Food Service Supervisor
Upper Merion Area School District
435 Crossfield Road
King of Prussia, PA 19406
Office- 610-205-8804**

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Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410; (2) Fax: (202) 690-7442; or (3) Email: program.intake@usda.gov. This institution is an equal opportunity provider.

SIGNATURE PAGE – Please Print or TypeNAME OF
COMPANY _____

ADDRESS _____

TELEPHONE: (____) _____ EXT. _____ FAX _____

EMAIL ADDRESS: _____

AUTHORIZED SIGNATURE _____ Date _____

PRINTED
NAME _____

CONTRACTS: The requirements for bid submission will be as follows: (1) Bid shall be mailed/delivered in a sealed envelope, included in the envelope should be a hard copy of the signature page and all required documents listed below as required in the checklist for bidder section 2021-23 Milk Bid Volume and Response Form should be submitted in printed PDF format using the provided response form only. The awardee will have to send the 2021-23 Milk Bid Volume and Response Form digitally after the bid opening in addition to their current Quality Assurance Program Plan. All bids must arrive by 10:00 a.m. on July 23, 2021 by 10:00am. The company submitting a bid should retain a copy as a reference.

CONDITIONS: In strict accord with all General conditions.

PERIOD: **August 3, 2021-August 2, 2023**

BID DUE BY: July 23, 2021 by 10:00 a.m.

SUBMISSION: **MARK ENVELOPE** -- "SEALED BID 2021-23 for UMASD MILK BID-CARE OF FOOD SERVICES"

Vendor agrees to accept the piggybacking option _____
(Please initial)

Vendor does not agree to accept the piggybacking option _____
(Please Initial)

Contact Person for Billing or Accounts _____ Phone # _____

For Product Quality Control _____ Phone # _____

Checklist for Bidder: HARD COPY REQUIREMENTS

- ☐ Signature Page
- ☐ 2021-23 Milk Bid Volume and Response Form, completed with pricing
- ☐ Nutritional analysis of all items

The following documents should be signed and notarized (hard copy):

- ☐ Act 111 of Public School Laws
- ☐ Non-Collusion Certificate
- ☐ Byrd Anti-Lobbying Certificate
- ☐ Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matters
- ☐ Clean Air/Federal Pollution Certificate
- ☐ Hold Harmless Certificate

Digital Copies of the following documents will be required upon award

- ☐ 2021- 23 Milk Bid Volume and Response Form
- ☐ Current Quality Assurance Program Plan-Digital required when awarded only

TIME FRAME FOR BID- EXTENSION AND RENEWAL

- a) **Initial Term** - The initial term of this contract, which results from the award of this bid, shall commence on August 3, 2021 and terminate on Aug 2, 2023.
- b) **Extension Option** -The contract may be extended up to three (3) months at the same bid pricing, provided mutual agreement by both parties in written form. This extension will be utilized only to prevent a lapse of contract coverage and only for the time necessary to issue and award a new Invitation to Bid, but not to exceed three (3) months.
- c) **Renewal Option** - This contract may be renewed for up to (2) two, one-year terms at the same terms and conditions by mutual agreement of both parties in written form.
- d) **Price escalation/de-escalation language-** Distributors may petition for increases in bid price once a year by April 15th prior to the start of the following school year. Price increases should not exceed the percent increase put out by the Bureau of Labor Statistics Producer Price Indexes for each commodity item. www.bls.gov. and as allowed by the Milk Marketing Board. Petitions for increases shall be received by Upper Merion Area School District a minimum of 30 days **prior** to the due date (April 15th).
 - Petitions for increases shall be based on the cost of product only.
 - Approval or rejection of requested increases will be based on Producer Price Indexes.
 - The Distributor is expected to pass market decreases on to the SFAs. Upper Merion Area School District may petition for an invoice decrease based on Producer Price Indexes.

GENERAL CONDITIONS – MILK AND DAIRY PRODUCTS

1. Bids shall be received sealed and plainly marked “SEALED BID 2021-23 for UMASD MILK BID for July 23, 2021 by 10:00 a.m. CARE OF FOOD SERVICES” in the Upper Merion Middle School, Ms. Penny Bartlett, Director of Food Services, Upper Merion Area School District, Administration Building, 450 Keebler Rd. King of Prussia, PA 19406, on or before 10:00 a.m., July 23, 2021. Bids will be opened on July 23, 2021 at 10:00 a.m., at the above address. The analysis will take place following the bid opening. Bids may also be dropped off anytime before this date and time, but will not be opened until July 23, 2021.
2. No bid will be allowed to be withdrawn after it has been delivered to the purchasing co-op. If the bid is mailed, it is the responsibility of the vendor to see that the bid is received no later than the time specified.
3. All milk prices shall comply with those established by the Pennsylvania Milk Marketing Board for school discount. All bids will use the June 2021 PA MMB prices. Seller agrees the price of milk may only fluctuate as the Pennsylvania Milk Marketing Board Order dictates for the duration of the contract period. Freight, delivery, and any other costs and fees must be included in all pricing submitted in the bid.
4. The district reserves the right to reject any and all bids, or to waive informalities in the bidding if it is in the interest of the district to do so. Further, the district reserves the right to make its award for one or more of the articles set forth in the specifications or make its award for all for all the articles set forth in these specifications.
5. UMASD reserves the right to reject any or all bids. Further, it is the intent of UMASD to reserve the right to make the award in its entirety to suppliers, rather than an item by item basis.
6. Whenever two (2) or more bids of equal amounts are the lowest prices submitted by responsible bidders, the district (or any of the piggybacking School Districts) may award the bid to any one or such bidders in its sole discretion.
7. UMASD will award the bid based on the equipment price. All responders MUST be able to provide milk cooler equipment in the specified amounts. (See “Upper Merion Area School District Piggybacking Schools- Milk BID 21-23”,
8. UMASD will award based on milk prices with equipment ONLY. Some of the schools will require equipment and some will not. All additional items, juice, yogurt etc will be quoted and ordered from the awardee.

9. While the bid will be determined by the items and pricing on the "Milk Bid Tab", we also require quotes of additional items that schools will use at points during the school year- these are on the "Quote Tab".
10. Where the bid specifications describe or specify a particular article, alternative bid covering articles equal in all respects are permitted, unless otherwise stated. Where an article specifies an article by name and the supplier intends to furnish another article which they consider equal thereto in every such instance, the name of the equivalent must be allowed.
11. It is understood that all specifications are subject to any regulation(s) of the United States Department of Agriculture, and the Commonwealth of Pennsylvania, and the Board of Health. All bids must include a copy of the current Quality Assurance Program to include the following: product specification, in-house infection control procedures, documentation of outside laboratory testing facilities, shipping and distribution, inventory and stock rotation. Testing and testing results will be provided to the district upon request at no charge to the district.
9. Each school district is exempt from the payment of any Federal, State, Local or Transportation taxes and sales tax. Exemption certificates will be signed on request. The price submitted must be net exclusive of taxes.
10. In the event that any of the said products shall be rejected as unsuitable or not in conformity with these specifications, such products of proper quality as set forth in these specifications shall be furnished in place thereof at the expense of the successful supplier.
11. The vendor shall utilize properly insulated, mechanical, or thermostatic temperature control refrigeration equipment. Such equipment must be capable of maintaining proper temperature in order to protect the product. The vendor shall comply with the Commonwealth of Pennsylvania-Department of Agriculture Requirements and HACCP guidelines with regard to facilities, personnel, storage and receiving practices, and delivery of food products. The School District reserves the right to inspect vendor's receiving, storage, and staging areas, delivery vehicles and Food Safety Plans to ensure compliance with these food service sanitation regulations.

The vendor must maintain clean pest-free storage areas and delivery vehicles. All crates must be clean and free of debris. The School District reserves the right to request information about the vendor's pest control in food storage areas and delivery vehicles. All chemicals used shall be certified as safe for use around food.
12. The purchaser reserves the **right to return without charge or to reject at the** time of delivery any merchandise received in damaged or in unwholesome condition such as:
 - a) Crushed cartons, broken cases or bags, unclean packaging or cartons, leaking carton or bottles;
 - b) Broken packaged goods;
 - c) Any food or food products that appear to be of inferior quality;

(Milk and dairy products must be received at 41 degrees or lower unless otherwise specified by law. Milk must be pasteurized and comply with FDA grade A standards (ServSafe Manager Book, 7th Edition)

- d) Items not meeting bid criteria.
13. In the event that the successful vendor shall neglect or refuse to furnish and deliver the said articles or any part thereof as provided in these specifications or replace any which are rejected, the purchasing group is authorized to purchase articles in conformity with this contract from such parties in such quantities in such a manner as it shall select at the expense of the vendor, or to cancel this contract, reserving to itself nevertheless all rights for damages which may, be incurred by each School District. In the event, the successful vendor does not perform or deliver products conforming to set standards, UDSD has the right to revoke or cancel remaining portion of the contract.
 14. The supplier will submit a current product list of all items, including prices, not included in this bid.
 15. Schools will place orders daily by 3:00 p.m. one day prior to delivery. Vendor will make a courtesy call to schools should an order be missed or use standing emergency order. Online ordering, phone ordering and email ordering must all be allowable.
 17. The supplier agrees to deliver per, school calendar, **inside** the buildings and place items as ordered in cooler/cabinets as each school district directs. All deliveries must be accompanied by an itemized invoice. Invoices must show, bid price, building name, and specify item and quantity. Delivery person and food service employee or designee will check merchandise against invoice. Any damaged merchandise will be returned and credit issued by driver on day of delivery. Each Site will require up to 3 deliveries per week. Days will be determined by agreement between Dairy and Site.
 18. Deliveries shall be made between the hours of 7:00 a.m. and 11:00 a.m. **or as required by the individual school**. Arrangements should be made upon award. Failure to honor these arrangements can result in a district not utilizing this bid.
 19. Drivers must adhere to each school's safety and COVID protocols, rules and regulations.
 19. Each district will provide the supplier a copy of the school calendar with the school closing number due to emergency or inclement weather conditions. Dairies will provide to each district emergency numbers and deadline/cut off times to prevent deliveries in the case of a school emergency or inclement weather day when districts are closed.
 20. Monthly statements and velocity reports of products are due by the 5th day of the following month and will be sent to the Food Service Director of each district participating in this bid.
 21. If any supplier finds discrepancies in, or is in doubt as to the true meaning of any part of the plans, specifications, or other, the supplier shall at once submit to the

purchasing co-op representative, a written request for an interpretation thereof. The interpretation rendered by UDSD shall be final and indisputable. The supplier submitting the request shall be responsible for its prompt delivery.

22. It is expected that each vendor shall have a written policy in place regarding Bio-Security and Food Supply. This is in cooperation with the Bio-Terrorism Act of 2002 under U.S. Department of Health and Human Services, Food and Drug Administration and under the United States Department of Agriculture, Food Safety and Inspection Service. The vendor will provide such company policy upon request of UMASD.
23. Milk and Dairy products must meet all local and state requirements governing the quality of all products supplied. All products shall be grown and processed in the United States of America. All milk products will be free of all growth hormones. All dairies must provide proof in writing stating that all milk products are hormone free.
24. Milk must be delivered below 41 degrees (F).
25. Dairies will provide schools gable tops or plastic re-sealable containers.
26. Bidder agrees to maintain the following levels of insurance(s), with companies which are authorized to do business under the laws of the state in which the Products are sold and the Services provided:

General Liability Insurance

Bodily Injury and Property Damage

\$1,000,000 Per Occurrence Limit

\$2,000,000 General Aggregate Limit

\$2,000,000 Products/Completed Operations Aggregate

Automobile Liability Insurance

Bodily Injury and Property Damage -\$1,000,000 Combined Single Limit

Workers Compensation and Employer's Liability Insurance

\$1,000,000 per accident, bodily injury by accident

\$1,000,000 each person, bodily injury by disease

\$1,000,000 policy limit, bodily injury by disease

Bidder shall provide to Buyer a certificate issued by Bidder's insurer evidencing the required coverage at the effective date of our agreement and no later than thirty (30) days after policy renewal.

27. NUTRITIONAL ANALYSIS CAPABILITY

- a) It is mandatory that product nutrient analysis data be readily available, on an Electronic format in the International Format of Dietary Allowances (IFDA) on an excel spreadsheet.
- b) Vendor will supply labels of all items on bid, with this analysis.
- c) A nutrient analysis sheet in the IFDA format of all the food products listed shall be included with the bid. A nutrient analysis sheet for each product

ordered that is not listed on the bid shall be provided to each district pending the award.

- d) The nutrient analysis sheet submitted is to be based on a “per serving” amount and include detailed information of the content of each ingredient in the product by weight. All ingredients of products must be listed with the signature of a manufacturing official (not a sales representative).

Included in the sheet will also be the following:

Serving size	Vitamin A
Calories	Vitamin C
Protein	Fat change (+/-)
Total fat	Moisture change (+/-)
Saturated fat	“As is” or “As Purchased”
Carbohydrates	Brand name / product name
Grams of sugar	Code number
Total dietary fiber	Pack size
Cholesterol	Number of servings per case
Calcium	Preparation instructions
Iron	Nutrient data sources utilized to
Sodium	calculate the nutrient analysis

28. Any inability to comply with the conditions and specifications as outlined must be clearly stated in your bid.
29. UMASD is acting as the lead agency in soliciting bids for vendor pricing for milk. UMASD will allow the 10 school food authorities (SFA) listed on “Upper Merion Area School District Piggybacking Schools- Milk BID 21-23”, to piggyback on this bid. In addition to the current SFAs listed in this Membership List, UMASD will allow an additional number of school districts to piggyback on this bid, however the additional number of schools allowed to piggyback will not increase the total purchase amount above \$500,000.00.
30. Questions concerning specifications are to be referred to Ms. Penny Bartlett, Director of Food Services, Upper Merion Area School District at pbartlett@umasd.org or 610-205-8804.

SPECIFICATIONS FOR FLUID MILK

ALL MILK PRODUCTS MUST BE DELIVERED TO EACH INDIVIDUAL SCHOOL AND PLACED INSIDE REFRIGERATED MILK CABINETS INSIDE THE SCHOOL BUILDING.

ALL MILK MUST BE FRESH, FLUID, NON-RECONSTITUTED MILK & HORMONE FREE

THE HEALTHY, HUNGER KIDS FREE ACT OF 2010 REQUIRES NEW MILK FAT CONTENT CATEGORIES

1. Milk – Non-Fat Fortified, Butterfat range 0.00%-0.49%
2. Milk – Unflavored, Low-Fat, Butterfat range .50%-1.49%
3. Milk – Flavored Milk Non-Fat (Chocolate/Strawberry/Vanilla), Butterfat range is pending by MMB. No more than 30 grams sugar per 8 oz. serving.
4. Half & Half - Butterfat minimum 8% and maximum 12%.

Submit the current letter from the Milk Marketing Board for month of May 2021 stating the minimum price for schools.

A certified laboratory report, by an independent laboratory, on all products listed will be required of the successful bidder. This report must state butterfat, bacteria plate count and coliform count per ml.

Submit letter on corporate letterhead attesting that processor and distributor milk is hormone free.

ANTI-DISCRIMINATION CLAUSE
(Section 755, Pennsylvania School Code)

1. In accordance with the provisions of the Pennsylvania School Code, the contractor agrees:
 - a. That in the hiring of employees for the performance of work under this contract, or any subcontractor hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform work to which the employment relates;
 - b. That no Contractor, subcontractor, or any person acting on behalf, shall in any manner discriminate against or intimidate any employee hired for performance of work under this contract on account of race, creed, or color;
 - c. That there may be deducted from the amount payable to the contractor under this contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated, in violation of the provisions of the contract; and,
 - d. That this contract may be canceled or terminated by the school district, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this portion of the contract.

**AGREEMENT BY VENDOR OR INDEPENDENT CONTRACTOR
OF UDSD TO COMPLY
WITH ACT §111 OF THE PUBLIC SCHOOL LAWS**

1. This agreement is part of the agreement between the undersigned business person or entity and UDSD, dated _____, for the sale of goods or the provision of services as an independent vendor or contractor in the nature of:

_____.

Bid #2017-19 Milk and Dairy Products

2. The undersigned understands that after January 1, 1986 independent contractors and their employees hired after that date must comply with §111 of the School Code, which provides, among other things, that a CRIMINAL HISTORY INFORMATION RECORD SEARCH must be obtained for each employee who could come into contact with school children, showing that such employees have not been convicted of certain crimes. A copy of the law is available upon request.

3. It is agreed that the UMASD has no right of direct control over the hiring, retention, screening or assignment of employees, agents or officers of the undersigned, and further that the undersigned is responsible for compliance with this law. In addition, should any official or employee of the school be subject to any claim, proceedings, lawsuit, fine, civil penalty or other legal involvement arising from the neglect or failure of the undersigned, or its officers, agents or employees, to comply with said law, then the undersigned, as part of the consideration of doing business with the School District, hereby agrees to indemnify and hold harmless the District and all District employees for all losses, including costs of counsel and all expenses incident thereto.

Dated: _____ 20____ By: _____ (Seal)
(Proprietor, Authorized Officer or Partner)

(Corporate Seal,
if applicable)

Witness or Attest:

Business Name and Address of
Vendor/Independent Contractor

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Anti-bid-Rigging Act. 73 P.S. 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submissions of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid" as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.

2021-23 Milk Bid

County of _____

and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers, I am the person responsible in my firm for the price(s) and the amount of this bid.

(1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

(2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor the approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before the bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this complementary bid.

(4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with or inducement from, any firm or person to submit a complementary or other noncompetitive bid.

(5) _____, its affiliates, subsidiaries,
(Name of my firm)

officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ understands and acknowledges
(Name of my firm)

that the above representations are material and important, and will be relied on by UDSD when recommending for award the contract(s) for which this bid is submitted, I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from UDSD of the true facts relating to the submission of bids for this contract.

(Print Name of Authorized Person and Company Position)

Signature of Authorized Person

Sworn to and subscribed before
me this _____ day of
_____, 20_____

Notary Public

My commission expires _____

BYRD ANTI-LOBBYING AMENDMENT COMPLIANCE AND CERTIFICATION

For all orders above the limit prescribed in FAR Section 52.203-12(g), or its successor regulation (currently \$150,000), the Offeror must complete and sign the following:

The following certification and disclosure regarding payments to influence certain federal transactions are made per the provisions contained in FAR 52.203-11 and 52.203-12 and 31 U.S.C. 1352, the "Byrd Anti-Lobbying Amendment."

(a) FAR 52.203-12, "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly.

(c) This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

SIGNATURE: _____ COMPANY

NAME: _____

DATE: _____

NOTARY: _____

DATE: _____

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (FIRST TIER SUBCONTRACTOR)

For all orders above the limit specified in FAR Section 52.209-6(e) (currently \$30,000) and in accordance with the requirements of FAR 52.209-6, the Offeror must complete and sign the following:

The Offeror certifies, to the best of its knowledge and belief, that _____

The Offeror and/or any of its Principals _____

Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

The Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

"Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

The Offeror shall provide immediate written notice to the University if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the University may render the Offeror non-responsible.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the University, the University may terminate the contract resulting from this solicitation for default.

SIGNATURE: _____ COMPANY
NAME: _____ DATE: _____

NOTARY: _____

DATE: _____

Clean Air and Water Certificate

Applicable if the contract exceeds \$100,000 or the Contracting Officer 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 U.S.C. 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(d)) and is listed by the Environmental Protection Agency (EPA) or the contract is not otherwise exempt.

Name of Vendor _____

Vendor agrees to the following:

A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

B. That no portion of the work required by this prime contract will be performed in 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.

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

D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).

B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

D. The term "Clean Water Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

A. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

B. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Food Service Management Company.

SIGNATURE: _____

COMPANY NAME: _____ DATE: _____

NOTARY: _____ DATE: _____

HOLD HARMLESS AGREEMENT**THIS FORM MUST BE SIGNED AND NOTARIZED**

IT IS HEREBY AGREED AND UNDERSTOOD THAT THE PROPOSER AGREES TO HOLD HARMLESS AND INDEMNIFY UDSD, THEIR OPERATING COMMITTEE, ANY OFFICER, AGENT, SERVANT, OR EMPLOYEE OF UDSD FROM ANY LAWSUIT, ACTION, PROCEEDING, LIABILITY, JUDGMENT, CLAIM, OR DEMAND WHICH MAY ARISE OUT OF:

ANY INJURY TO PERSON OR PROPERTY SUSTAINED BY THE PROPOSER, ITS AGENTS, SERVANTS, OR EMPLOYEES, OR ANY PERSON, FIRM, OR CORPORATION EMPLOYED DIRECTLY OR INDIRECTLY BY THEM UPON OR IN CONNECTION WITH THEIR PERFORMANCE UNDER THE CONTRACT.

HOWEVER CAUSED, ANY INJURY TO PERSON OR PROPERTY SUSTAINED BY ANY PERSON, FIRM, OR CORPORATION, CAUSED BY ANY ACT, DEFAULT, ERROR, OR OMISSION OF THE CONTRACTOR, ITS AGENTS, OR EMPLOYEES OR ANY PERSON, FIRM, OR CORPORATION, DIRECTLY OR INDIRECTLY EMPLOYED BY THEM UPON OR IN CONNECTION WITH PERFORMANCE UNDER THE CONTRACT.

THE ASSUMPTION OR INDEMNITY, LIABILITY, AND LOSS HEREUNDER SHALL SURVIVE CONTRACTOR'S COMPLETION OF SERVICE OR OTHER PERFORMANCE HEREUNDER AND ANY TERMINATION OF THIS CONTRACT.

THE CONTRACTOR AT ITS OWN EXPENSE AND RISK SHALL DEFEND ANY SUCH LEGAL PROCEEDINGS THAT MAY BE BROUGHT AGAINST THE CAREER INSTITUTE OF TECHNOLOGY, THE OPERATING COMMITTEE, OR ANY OFFICER, AGENT, SERVANT, OR EMPLOYEE OF UDSD ON ANY CLAIM OR DEMAND, AND SHALL SATISFY ANY JUDGMENT THAT MAY BE RENDERED AGAINST UDSD, THE OPERATING COMMITTEE, OR ANY OFFICER, AGENT, SERVANT, OR EMPLOYEE OF UDSD THIS INDEMNIFICATION, DEFENSE, AND HOLD HARMLESS AGREEMENT SHALL APPLY TO ANY LAWSUIT, ACTION, PROCEEDING, LIABILITY, JUDGMENT, CLAIM, OR DEMAND, OR WHATEVER NAME OR NATURE, NOTWITHSTANDING THAT CONTRACTOR MAY DEEM THE SAME TO BE FRIVOLOUS OR WITHOUT MERIT. IT IS INTENDED THAT THIS AGREEMENT BE INTERPRETED IN THE BROADEST MANNER POSSIBLE SO AS TO INSULATE ALL OF THE ENTITIES, PARTIES, AND INDIVIDUALS NAMED ABOVE FROM ANY LIABILITY, COST, OR JUDGMENT, MONETARY OR OTHERWISE, AS THE SAME MAY RELATE TO THE PERSONNEL AND SERVICES PROVIDED BY THE CONTRACTOR.

SIGNATURE: _____ COMPANY
NAME: _____ DATE: _____

NOTARY: _____
DATE: _____