



REQUEST FOR PROPOSAL

Solicitation Number: 18-19-13
Date Issued: June 04, 2019
Procurement Officer: Pamela Phillips
Phone: (864) 594-6179
Email Address: pPhillips@spart7.org

DESCRIPTION: Beverage Vending Services

*The Term "Offer" Means Your "Bid" or "Proposal". Your offer must be submitted in a sealed package.
Solicitation Number & Opening Date must appear on package exterior.*

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:

Spartanburg School District Seven
 Attn: Pamela Phillips
 PO Box 970
 Spartanburg, SC 29304

PHYSICAL ADDRESS:

Spartanburg School District Seven
 Attn: Pamela Phillips
 610 Dupre Drive
 Spartanburg, SC 29307

SUBMIT OFFER BY: June 19, 2019 at 2:00 PM

QUESTIONS MUST BE RECEIVED BY: June 12, 2019, before 10:00 AM

(please direct questions electronically to Pamela Phillips at pPhillips@spart7.org.)

NUMBER OF COPIES TO BE SUBMITTED: One (1) Original with five (5) paper copies and five (5) flash drives.

CONFERENCE TYPE: Presentations on Tuesday,
6/25/19 by Appointment

LOCATION: Spartanburg School District 7
610 Dupre Drive
Spartanburg, SC 29307

**AWARD &
AMENDMENTS**

The award, this solicitation, any amendments, and any related notices will be posted at the following web address: [Spartanburg School District 7 Available Solicitations](#)

You must submit a signed copy of this form with your offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold your offer open for a minimum of sixty (60) calendar days after the opening date.

NAME OF OFFEROR

(full legal name of business submitting the offer)

Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

AUTHORIZED SIGNATURE

(Person must be authorized to submit binding offer to contract on behalf of Offeror.)

TAXPAYER IDENTIFICATION NO.

(See "Taxpayer Identification Number" provision)

TITLE

(business title of person signing above)

PRINTED NAME

(printed name of person signing above)

DATE SIGNED

STATE OF INCORPORATION

(If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one)

Sole Proprietorship Partnership Other _____

Corporate entity (not tax-exempt) Corporation (tax-exempt) Government entity (federal, state, or local)

(Complete, Sign & Return This Page with your Offer)

PAGE TWO
 (Complete & Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.)
	Area Code - Number - Extension Facsimile
	E-mail Address

PAYMENT ADDRESS (Address to which payments will be sent.)	ORDER ADDRESS (Address to which purchase orders will be sent)
___ Payment Address same as Home Office Address ___ Payment Address same as Notice Address (check only one)	___ Order Address same as Home Office Address ___ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue.

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	___ Calendar Days (%)
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MINORITY PARTICIPATION

Are you a South Carolina Certified Minority Vendor? **Yes** _____ **No** _____

If yes, South Carolina Certification # _____

SCOPE OF WORK

The products and services to be provided shall include, but are not limited to, those indicated and inclusive of the responsibilities in the section entitled "Scope of Work". The successful proposer is expected to fulfill all duties as directed by the Superintendent or designee whether noted or in addition to this solicitation. The implementation of the project shall commence on or about July 17, 2019. An Intent to Award shall be issued prior to that date.

If the awarded proposer is unable to provide services at any point or performs in a manner that is unacceptable to the District, in the opinion of the District, the District reserves the right to cancel the award according to the method described in this solicitation and secure such services from other qualified sources as needed to meet District requirements. This action shall not be grounds for contract controversy.

Proposers shall explain, in detail, any additional service that they wish to provide to the District. Proposers shall provide and explain all applicable costs to the District within the proposal. Undisclosed costs/fees shall not be paid at any time.

Proposers shall address all aspects of the District's solicitation requirements and discuss additional areas that the proposer believes to be important. Proposers shall explain their methodology and business practices in the proposal submittal and offer the District any potential revenue, incentives, benefits or cost saving concepts.

Due care and diligence has been used in the preparation of the solicitation and specifications. The information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely upon the proposing entity. The District and its representatives will not be responsible for any errors or omissions in the specifications or the proposer's response nor for the failure on the part of the proposer to determine the full extent of the solicitation requirements and exposures.

The District reserves the right to determine if submitted minor deviations from the listed specifications are acceptable. The District reserves the exclusive right to determine what constitutes a deviation. The District reserves the exclusive right to determine the relative quality and acceptability of any proposed product(s), material(s) or service(s) when compared to the solicitation's specifications.

The program requirements include, but are not limited to, the responsibilities in following sections. It is the intent of the District to have one (1) provider pursuant to this solicitation. The successful proposer is expected to fulfill all duties as directed by the Superintendent or designee whether noted or in addition to this Scope of Work. If the awarded proposer is unable to provide services at any point, the District reserves the right to secure the services from other sources as needed to meet District requirements.

The Spartanburg School District Seven's Procurement Code and Regulations govern and supersede any and all other documents, proposals and policies, whether stated or implied.

Proposers may have the right to protest this solicitation when issued or the subsequent award in accordance with Article XI of the District's Procurement Code. The Procurement Code and Regulations containing such rights is posted on the District Procurement website.

Agreement

NOTE: If an interested entity cannot agree to the following requirements the entity should not expect to be considered eligible for an award.

The District shall not accept, enter into or sign any proposed agreement(s), document(s), offer(s), contract(s), leases(s) and/or provision(s) that materially conflicts with the District's General Terms and Conditions, the requirements of this solicitation or which are determined not to be in the best interest of the District.

This solicitation and the District's General Terms and Conditions shall govern and take precedence as the contract between the District and the awarded proposer. The terms of the agreement between the District and the successful proposer shall comply with the requirements contained in this solicitation and the District's General Terms and Conditions which are incorporated herein.

NOTE: Should the proposer require the District to sign any contract(s), any document(s) and/or any agreement(s), the proposer shall inquire in writing if the District would consider its proposed contract(s), document(s) and/or agreement(s) and shall provide such contract(s), document(s) and/or agreement(s) or other pertinent documents to the District's undersigned Procurement Officer prior to the Inquiry Deadline which is noted in the solicitation. Submittal of any document(s) does not mean acceptance of the document(s) and the information contained therein, by the District or that a proposer is considered by the District to be responsible and/or the subsequent proposal responsive.

Proposals that include agreements, terms, conditions, contracts and/or contract provisions which conflict with the District's General Terms and Conditions (attached), which were not submitted prior to the Inquiry Deadline and/or were not approved by the District prior to proposals being received and/or conflict with the requirements of this solicitation, may be rejected by the District as non-responsive. The rights and authority to make such a determination is reserved solely to the Procurement Officer of Spartanburg School District Seven.

The District shall not accept any proposed agreement, contract, lease, terms and conditions or any other contractual document which may be included with the proposal that has not been previously submitted to the Procurement Officer prior to the Inquiry Deadline or is referenced in the proposal to be enforceable in the future. The District shall not accept any terms and conditions which would be prejudicial to other proposers and/or which materially alters the solicitation. Software licensing agreements are included in this requirement.

Interested firms are hereby given notice that a "Proposal Certification" form is included within the solicitation and by signing the certification form, with no alterations allowed, the proposer

agrees to be bound by the terms and conditions of the solicitation and by the District's General Terms and Conditions.

Spartanburg School District Seven's Procurement Code and Regulations govern and supersede any and all other documents, proposals and policies, whether stated or implied.

Interested firms or individuals that submit a proposal that contradicts this solicitation and which is not in compliance with the requirements of this solicitation, including the District's General Terms and Conditions, acknowledge and understand that, by doing so, its proposal may be deemed non-responsive by the District.

The District shall not indemnify and/or hold harmless any Non-District entity or the entities' representatives as this action is not statutorily allowed by South Carolina law. Firms' proposal responses that contradict this requirement shall not be eligible for an award.

Proposal Contents

To be considered for award, a proposal shall include, as a minimum, the following information. All information must be presented in the order noted below:

A. Pages One (1) & Two (2) of this bid document, completed.

B. Cover Letter:

A cover letter, which includes a summary of the proposer's ability to perform the services described herein and statement that the proposer is willing to perform those services and enter into a contract with the District. The cover letter shall be signed by a person having the authority to commit the proposer to a contract. Proposals shall be considered only from responsible organizations with a proven record of providing vending machine operations similar to the services described in this RFP.

C. Experience and Qualifications:

1. Describe proposer's general background, experience and qualifications.
2. Provide proposer's relevant experience with vending machine operations on a similar scale. (Submit at least four (4) references.)
 - a) Provide the period of time proposer has served each location
 - b) List the total annual sales volume for each location.
 - c) Provide names, addresses and telephone numbers of administrators who are in the position to evaluate the general quality of the operation at their site.

D. General Approach:

1. Describe the facilities to be operated, including an evaluation of how the services will be provided (i.e. any type of facilities improvement that the proposer believes is necessary to improve current conditions)
2. Describe the resources required to efficiently handle the Vending Program.

E. Business Proposal:

Proposer shall submit the following information as part of its business proposal:

1. Financial:

Proposer shall demonstrate it has necessary capital and other resources to fulfill the contract without assistance from any source.

2. Provide for Gross Sales Return payments of commissions on sales of not less than forty-two and one half percent (42.5%) per unit sold or as negotiated with the district.

3. Proposers shall provide costs for each of the products as noted in the "Special Events" provision above.

F. Enhancements:

The proposing firm may propose enhancements and submit a detailed description and anticipated benefits to be derived from these enhancements.

G. Financial Considerations:

1. The District acknowledges a preference for proposals from any firm that provides dollar incentive, up-front funds or some combination. These incentives, up-front funds or combination are separate and cannot be combined with any commission paid by the successful contractor to schools or locations. The responsible proposing entity that offers the highest dollar incentive and is ranked highest by the District may receive the sole right to offer products for resale at District sites.

2. The proposing entity/entities may provide a proposal to include scoreboards, electronic marquee, capital improvements to athletic facilities or other capital expenditures for equipment or fixtures. Proposers shall include in their proposals details regarding the sharing of profits with Booster Clubs and other incentives available to such organizations.

H. Sponsorship Benefits:

The awarded proposer will have the right to distribute machine vended beverage products in the District.

Proposer General Information (Required)

Proposers shall explain, in detail, any additional product/service or incentive that they wish to provide to the District. Proposers shall provide all applicable costs to the District within the proposal. Undisclosed costs shall not be paid at any time.

Proposers shall respond to each of the following areas of concern. Failure to respond to each of the points below may result in the proposal being deemed non-responsive.

Proposers may use additional pages within the proposal to explain the proposed services/product/capability.

Respond in the sequence below:

1. Proposer's main business activities.
2. Length of service in the county/state.
3. Address the proposing entity's financial ability to provide the services required.
4. Indicate the capability of the proposer's company and programs/methodology to provide the requested service to the District.
5. Name and address of the proposer's insurance agency and surety company. Provide proof of insurance regarding general liability, workers compensation and related coverage.
6. State the method of determining all applicable charges (if applicable).
7. State in detail the method of accountability and documentation to operate the services/program.
8. Describe customer support capability, staff qualifications and philosophy.
9. List any impartial service ratings/or reports regarding the proposing company or any of its affiliates.
10. Provide information regarding governmental or client litigation, including any debarments, related to the proposer's company or its affiliates.
11. State membership in any trade organizations or associations.
12. List at least four business references. (Preferably in an educational environment of similar size as this District).
13. Confirm proposer's compliance to all Federal, state and local (Spartanburg, South Carolina) statutes, regulations and governing mandates related to this program.

Proposal Evaluation Criteria

All proposals will be reviewed for purposes of determining responsiveness and proposer responsibility. Any proposal that does not meet the requirements of the RFP and the District will be determined to be nonresponsive. To determine responsibility, all information given by the proposer concerning its availability and capability to perform the contract requirements will be subject to review, as well as the integrity and reliability of the proposer. The submission of a proposal for review does not necessarily qualify the proposer as responsible or the proposal as being responsive. Failure to provide specific information, as requested, for use in our evaluation will cause the proposal to be nonresponsive and disregarded.

Proposers should expect to be invited to make presentations to the evaluation team and respond to questions during the meetings. These meetings have tentatively been scheduled for June 25, 2019.

The evaluation team may request written or oral clarifications of any offer received from a responsible proposer. However, the District may, at its sole discretion, refuse to accept in full or partially, the proposer's response to a clarification request. Proposers are cautioned that the evaluators are not required to request a clarification therefore; all offers should be complete and reflect the most favorable terms. The District reserves the right to reject any and all offers when such rejection is deemed to be in the best interest of the District.

NOTE: The District may or may not hold discussions for purposes of clarification or engage in negotiations with a responsible proposer. Proposers should not expect to have the opportunity to provide a demonstration, have discussions with the District or engage in negotiations solely due to the fact that they submitted a proposal. Proposals shall be complete and contain the proposer's best and final offer

This solicitation does not commit or in any way obligate the District to award a contract, to pay any costs incurred in the preparation of the proposal or to issue an award for any service or work product.

Evaluation Factors

Proposals will be evaluated by the District based upon the evaluation factors noted in the following section. Proposers shall address the following main areas of interest in their responses to be evaluated properly.

Selection will be based upon the following criteria in order of importance. The proposer shall respond to each concern:

EVALUATION FACTOR	VALUE
1. Financial considerations to the District including dollar incentive, up-front funds, unit costs and enhancements or combinations of thereof.	40%
2. Proposed product(s) and implementation/service plan.	30%
3. Proposer's qualifications, experience and valid references of the proposer to provide the services.	5%
4. Proposer's implementation ability/schedule and other services available that may not be addressed in this RFP.	20%
5. Proposer's responsibility and proposal responsiveness related to the RFP regarding requested information and the ability to meet District requirements.	5%

Proposal Certification

Interested firms are reminded that a "Proposal Certification" form is included within the solicitation and by signing the certification form, with no alterations allowed, the proposer agrees to be bound by the terms and conditions of the solicitation and by the District's General Terms and Conditions included herein.

Interested firms or individuals that submit a proposal that contradicts this solicitation and which is not in compliance with the requirements of this solicitation, including the District's General Terms and Conditions, acknowledge and understand that, by doing so, its proposal may be deemed non-responsive by the District.

Proposers that take exceptions to any portion of this solicitation may be deemed "non-responsible" and may not be eligible for an award. The rights and authority of such determination is reserved solely by the Procurement Officers of the District's Procurement Department.

Enclosed is the Certification Form to be completed when submitting a proposal. Only this form shall be used; no other form is acceptable. This form shall be completely filled out and returned with the proposal in addition to the required material and

Applicability of District's Code and Regulations

Spartanburg School District Seven's Procurement Code and Regulations govern and supersede any and all terms, conditions and/or requirements of the solicitation. Proposers may have the right to protest this solicitation or subsequent award in accordance with Article XI of the District's Procurement Code.

Governing Law and Venue

The solicitation and any resulting Award/Agreement, as well as any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of all parties shall, in all respects, be interpreted, construed, enforced and governed by and processed under Spartanburg School District Seven's Procurement Code and Regulations and the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or contractual arrangement arising out of, relating to, or contemplated by the solicitation. The parties agree that the Venue for any action relating to this agreement shall take place and be administered in Spartanburg County, South Carolina.

Any provisions required for inclusion in a contract of this type by an applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

Proposal Acceptance Conditions

The proposal shall be signed by an authorized individual who may bind the offering firm to provide the service in accordance with the specifications contained in this Request for Proposal (RFP). The proposal must contain a statement to the effect that the proposal content is firm and not subject to change for an acceptance period of ninety (90) days from the proposal due date or longer, if so required by the District.

This solicitation does not commit or in any way obligate the District to award a contract, to pay any costs incurred in the preparation of the proposal or to issue an award for any service or work product.

The District reserves the right to accept or reject, in part or in entirety, any or all proposals and to cancel in part or in entirety, this solicitation if it is in the best interest of the District. The District reserves the right to waive any informalities or technicalities in the solicitation or proposals in order to serve the best interest of the District.

Prices submitted shall be inclusive of all costs that the proposer expects the District to pay. The prices proposed shall include all materials, labor, equipment, tools, taxes, consumables and etc. required to provide all aspects of the project. The District shall not honor hidden or undisclosed costs.

Proposer Responsibility and Proposal Responsiveness

Responsibility of the proposer shall be ascertained for a contract awarded by the District based upon full disclosure to the District concerning the capacity and capability to meet the terms of the solicitation and based upon a past record of performance for similar work. The unreasonable failure of a proposer to supply information promptly in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such proposer. Failure to provide requested information may result in a rejection of a solicitation response or debarment of the vendor/proposer.

The successful proposer shall perform this project in compliance with all Federal and State requirements concerning fair employment of all employees and applicants. Proposing firms shall promote the employment of the disabled and disadvantaged and shall employ without regard or discrimination due to the reason of ethnic background, age, color, religion, gender, national origin or physical disability. Proposers should provide information regarding the use of minority subcontractors if applicable or if requested by the District. Assistance to minority and disadvantaged firms and individuals is available in accordance with the District's Minority Business Enterprise Utilization Plan which is available by contacting the Procurement Officer.

The District shall be entitled to audit the books, documents and records of a contractor or any sub-contractor as a result of any award, contract or subcontract, negotiated or otherwise, to the extent that such books and records relate to the performance of such contract or subcontract. Such books, documents and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by a District Procurement Officer. This provision applies to any resulting award related to this RFP.

Disclosure Information

Proposers should clearly mark any portion of their proposal that is considered proprietary. Proprietary information will not be released to the public except as allowed by Chapter 4 of Title 30 of the South Carolina Code of Laws. The District shall determine whether or not information is proprietary and/or confidential and subject to release. Entire proposals may not be marked as

"confidential", "proprietary" or "exempt from disclosure" and etc. The District shall not recognize or accept such overreaching claims. Even if information is so marked as such by the proposer, the contents may be subject to disclosure in accordance with South Carolina law.

Award

An award may be made to one (1) responsible firm in order to meet the District's requirements. After proposal review and evaluation, an award may be issued to the highest ranked, responsible firm whose responsive proposal is determined to be the most advantageous to the District, taking into consideration the evaluation and the terms of this solicitation. The right is reserved to reject any and all, or portions of, proposals received. In all cases, the District will be the sole judge as to whether a proposal has or has not satisfactorily met the requirements of the solicitation. The District is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous, nor will the District be required to furnish any information regarding the solicitation.

This is a multiple year agreement/award renewable each one (1) year period up to five (5) years in total. The Scope of Work section details the period of performance and responsibilities.

The District will evaluate the awarded firms during the period of performance in order to determine if the District's standards and goals contained in the solicitation are being met. When applicable, the District may also evaluate the awarded firms' performance, pertinent records, cost reporting, compliance with deadlines and timeframes, schedule adherence, quality control, communications with District representatives and professionalism. Precise criteria for evaluation of performance will consist, at a minimum, of the terms of this solicitation and others may be developed after award of the contract.

Requirements

Project Schedule

The project is scheduled to commence on or about July 17, 2019 after issuance of an award.

Specific Scope of Work

An award resulting from this RFP will be for three (3) years from the date of award and reviewed annually with the option to extend for two (2) additional one (1) year periods if agreed to by the successful proposer and the District. The first extension period cannot exceed one year, the second extension cannot exceed past July 16, 2024.

Pricing shall be provided for all individual products for the initial year of performance. Pricing shall be based on a five year Vending Plan with any price increases broken out per year. For example: July 17, 2020 to July 16, 2021; July 17, 2022 to July 16, 2023; etc.

Purpose of Solicitation

The purpose of this solicitation is to seek proposals for implementing the District's vending requirements in compliance with the Scope of Work. The District is particularly interested in any proposal that will enable the District to secure incentive funds and expedite implementation

of the plan. Implementing it within the needs and quality expectations of the District are, however, priorities.

NOTE: The District shall not accept less than 42.5% profit after taxes or as negotiated by the district.

Spartanburg School District Seven is located in the Upstate of South Carolina with approximately 7,500 students and 1200 employees. The District consists of more than 17 schools, career centers and other facilities.

The District is seeking proposals from entities for the following purposes:

- A. To designate a provider of beverage vending services/machines.
- B. To provide beverages as noted herein.
- C. To provide quality products at the lowest prices.
- D. To assist schools as a source of revenue.
- E. The District acknowledges a preference for proposals from any firm that provides dollar incentive, up-front funds or some combination. These incentives, up-front funds or combination are separate and cannot be combined with any commission paid by the proposer to schools or locations.

A proposal shall consist of details for the management of the vending services envisioned in the Scope of Work, in accordance with the requirements described in this RFP.

Automatic Vending

This specification involves the requirements for furnishing and installing automatic vending equipment to the District schools and other locations per attachment.

A. Classification

Services rendered herein shall be classified as Vending Machine/Services Operation.

B. Applicable Standards

Services rendered herein shall meet standards as specified in the following:

Food Service Regulations 61-25 — Vending of Food and Beverage

Department of Health and Environmental

Control Columbia, South Carolina 29201

and

U. S. Department of Health, Education and Welfare

Public Health Service

Food and Drug Administration

Office of Regulatory Affairs

Fishers Lane

Rockville, Maryland 20857

Beverage Supplies

Beverages sold through vending machines and offered to patrons shall be sound and free from spoilage, filth and other contamination and shall be safe for human consumption. The beverage shall be obtained from sources that comply with all laws relating to beverage and/or food handling and labeling. The use of beverages in hermetically sealed containers, which were not prepared in a beverage-processing establishment maintaining the highest possible sanitation rating, is prohibited.

If the successful proposer cannot supply a product that the District is required to, or wishes to, provide to its students and staff, then the District shall have the right to obtain the product in its best interests elsewhere. Such acquisition of product shall be exempt from the terms and conditions of this RFP.

Beverages Available

All products available to students must meet Federal and State nutritional requirements.

After school events and teachers' areas are exempted.

Additional products and returns:

Proposers may include additional, related products in their proposal, but, the District reserves the right to disregard such products. The successful proposer may introduce new products after approval by the District within the terms of this RFP are met. Proposals shall provide the suggested unit and case cost for each proposed product.

The proposal shall state the unit percentage of return, to the District, for all products sold by the successful proposer. Pricing shall include all applicable taxes for both full service vending and non-full service sales. The District has final approval on all product prices.

The District reserves the exclusive right to determine the acceptability of any proposed product or manufacturer.

Facilities and Equipment

The successful proposer shall have exclusive rights to furnish, install, operate, supply and service automatic vending equipment for the sale of beverage items normally sold in vending machines on the District's premises. Deliveries shall occur between the hours of 8:00 A.M. and 3:00 P.M. or as directed by the Principal or location manager. The Principal or location manager shall also have the right to decide specific locations where vending equipment may be located and shall establish the hours the machines may be operational. However, full service vending machines are not allowed in cafeterias.

All machines installed shall be clean, attractive, with no dents or chipped paint, have validators/counters and shall have locked cash boxes. The District has the sole right to decide if a machine's appearance is acceptable. If it is deemed that a machine is not acceptable, the vendor must remove the machine from District grounds and furnish a replacement within thirty (30) working days of being notified by the District.

As new equipment is developed, proven and commercially available, it shall be placed in service to assure that all equipment is of the latest and most efficient design. It is the desire of the District to have a standardized system of machines.

Energy Star vending machines shall be capable of operating in the EPA Energy Star "Refrigeration low power state" — the average beverage temperature is allowed to rise to 40⁰F or higher for an extended period of time.

The low power mode-related controls/software shall be capable of on-site adjustment by the vending operator unless the low power controlling device is already preprogrammed when installed in the machine.

The successful proposer shall provide and maintain a petty cash fund of at least \$20.00 at each District location for the purpose of providing prompt refunds of money lost in proposer's machines. The contractor shall replenish these funds in a timely manner within ten (10) business days.

Machine/Equipment Placement

The proposer shall furnish, install, maintain and operate at its own expense such vending machines as may be mutually agreed upon by the proposer and the District. The proposer shall place equipment only in approved areas of the schools. Title to all equipment furnished and installed by the proposer shall remain the property of the proposer and none of the equipment shall become part of the building. The proposer shall be responsible for the payment of taxes on all equipment located on District property.

Full Service vending machines are not allowed in cafeterias.

All products offered through vending machines shall be attractively packaged, clearly labeled and priced.

Machines shall be stocked with adequate merchandise with consideration to rotation, variety and patron usage. All machines shall be stocked and capable of operation twenty-four hours a day, seven days a week except as previously noted. Beverages shall NOT remain in a machine under refrigeration or be offered for sale beyond the expiration date indicated on any particular product.

All vending machines are to be of a uniform color, height and appearance. The proposer shall provide at its own expense, any additional equipment not currently in place, necessary to operate the equipment. All equipment shall be installed at no expense to the District. Title to all equipment owned by the District related to vending shall remain the property of the District. The District retains exclusive rights to determine placement, type and quantity of any and all vending machines or other operations.

Examples of Acceptable Vending Machine Manufacturers

Automatic Products Polyvend Choice Vend ECC Vending Products

National Vendors R-O International Rowe

International Royal Vendors Dixie Narco

RIMI U-Select-It Vendor

Repair Service

An effective mechanical repair and maintenance service must be available during normal school operating hours including after-school programs and events. Replacement machines must be provided as directed by District personnel when necessary. When notified by District personnel of any defective or non-operating machines, the successful Proposer must be capable of responding within twelve (12) hours with either repair technicians or a replacement machine. The proposer shall, at its own expense, perform any and all corrective and preventative maintenance required to keep all machines clean, sanitary, free of insects and other contaminants and in excellent operating condition.

Special Events

The District requires the following packages be available to the District as needed for all athletic and public events held on District property. Proposers shall provide costs for each of the following products to the District, Booster Club and PTAs:

- 12 ounce cans
- 20 ounce bottles
- 12 and 16 ounce cups
- 2 Liter Bottles

Elementary and Middle Schools may conduct "Spirit" fund raising days, in which the school may obtain beverages from other providers, if the contractor does not provide the requested beverages for free. The school must first request the successful vendor to provide these items for free before it obtains these items from other providers.

PTAs, Booster Clubs and Other School Groups

During the School Day on District Property - Beverage products offered by the successful vendor must be purchased from the vendor or a local resource (grocery store, wholesale club, etc.). This requirement includes school stores and concession sales during school time (cafeteria, etc.). School groups may purchase products from the successful vendor at the school system contract price. Other beverage products not offered by the successful vendor may be sold with prior District approval. All beverages sold to students by any group during the school day SHALL comply with the National School Beverage Guidelines.

After-School Public Events on School District Property — Beverage products offered by the successful vendor must be purchased from the vendor or a local resource (grocery store, wholesale club, etc.). Products not offered by the successful vendor may also be sold with prior District approval. For these events, all beverages sold do NOT have to meet the National School Beverage Guidelines.

Submittal Information

Proposers shall include all applicable requested information and must provide any additional information that they wish to have considered contained within the proposal. Due to the possibility of discussion or negotiation with an apparently responsible firm submitting a

proposal, pursuant to the selection criteria set forth in this RFP, proposers' competitive information shall not be divulged unless required by South Carolina law.

A contract may be awarded encompassing some or all portions of a proposal, in the best interest of the District.

Any resulting award, agreement, contract or understanding may be cancelled with thirty (30) calendar days' notice if funding is not allocated for continuation of the program. This lack of funding and resulting cancellation shall not be grounds for contract controversy.

The District reserves the right to award the project and commence operations sixteen (16) days after the Intent to Award has been issued. The program will be reviewed annually by District administrators and either renewed/continued or cancelled.

GENERAL REOUIREMENTS

Fiscal Matters

All facilities, equipment and services to be provided by the proposer shall be at the proposer's expense.

Proposer shall pay the District:

- (1) Gross Sales Return: payments according to a schedule of the percentage of gross sales return to the District, less applicable sales tax; based on unit cost of beverage products,
- (2) Payment: An Award resulting from this RFP will be for the three (3) years from the date of award with the option to renew for a two year period with annual reviews and the last period of time to end on July 31, 2024.

The proposer shall maintain full and accurate records and accounts in connection with the food service operations. All such records shall be retained by the proposer for a period of five (5) years and may be audited by the District's designated representative at any time during regular working hours.

The awarded proposer shall submit a quarterly and an annual statement covering all operations within one (1) month of the end of that period. Said statements shall be filed with the District's Finance Department. Contractor shall be responsible for all taxes imposed.

Within fifteen (15) days following the end of each month the proposer shall submit to each individual District location, a financial statement with full disclosure of all sales and pertinent financial data together with a check covering commissions to the individual location, for that immediate preceding month.

Payment of commissions on gross sales from the Vending Machines operation shall be made to each individual District location monthly. The District through its duly authorized representative shall at all reasonable times have the right to examine books, papers, and records of the Contractor.

Contractor shall provide in each vending machine, meters/counters that will accurately document gross sales. Contractor shall contact District personnel to witness and document meter/counter readings when requested by the District.

Proposer Requirements

The District will evaluate the selected proposer yearly, or as needed, with regard to meeting the District's standards and the goals of the project. Depending on the option chosen, the District will also evaluate the contractor's safety record, cost reporting compliance with deadlines and time frames, cost management, value awareness, schedule adherence, quality control, accuracy of reports, relationships with District employees, communications with District representatives, and professionalism of management employees. Precise criteria for evaluation of performance will consist, at a minimum, of the terms of this RFP and others may be developed after award of contract. The District expects improvement of the overall vending process, including but not limited to, increased revenue for each school, efficiency improvements, inventory control and overall vending improvements, professionalism, timely reports on all facets of the project, timely projections, awareness of changing requirements on the school level, improved quality, and improved vending machine technology.

Proposer's Relationship with the District

The successful responder shall be an independent contractor of the District. None of the contractor's employees shall be deemed for any purpose to be employees, agents, or servants of the District, but shall at all times serve as employees, agents, or servants of the contractor for whom and at whose direction they shall act. No acts performed for or representations made, whether written or oral, by the contractor to third parties shall bind the District. The contractor shall be solely responsible for the withholding and payment of all federal, state, and local personal income, social security, unemployment, workers compensation, and other payroll taxes for its employees. The District shall have no liability of any sort for the contractor's employees.

No portion of this contract shall be subleased, assigned, transferred, or conveyed without written approval prior to or after issuance of the Intent to Award, from the District representative.

Agent of the District

The proposer shall not represent itself as an agent of the District and nothing herein shall be construed as creating a partnership, joint venture or agency.

Use of District Name

The proposer shall not use the name of the District in making contracts with suppliers or any other manner. The proposer shall make all contracts in its own name, and the proposer alone shall be responsible for its purchases and contracts.

Permits Licenses and Taxes

The proposer shall, at its own expense, prior to an award and prior to commencing services/operations on behalf of the District or under contract with the District, shall acquire all necessary permits, licenses and other approvals as required by law to provide the required

services and/or actions in conjunction with a contract award with the District. It is recommended that interested firms contact the following to learn of any pertinent requirements or licenses:

1. The South Carolina Secretary of State's office (www.scsos.com)
2. The South Carolina Department of Revenue
3. The City of Spartanburg, South Carolina

The District shall not interpret the requirements of other public entities on behalf of the proposer.

Firms shall obtain all necessary permits and licenses required by local, state and Federal law and regulations prior to any award or agreement and shall remain in compliance with all applicable statutes and pertinent regulations throughout the term of performance. Should any permits or licenses be revoked or lapse during the period of performance, the undersigned Procurement Officer shall be notified immediately.

The firm shall pay all excise taxes, retail taxes and other fees imposed. The firm assumes full responsibility for payment of all State and Federal taxes for unemployment, pensions or any Social Security legislation for all its employees and will further comply with all requirements that may be specified in regulations hereafter promulgated by the District's administrative officials.

Health Department Rating

Where applicable, a Health Department rating of "A" shall be maintained at all times. Copies of Health

Department reports and inspections shall be provided to the District on a regular basis. A report of less than an "A" rating shall constitute breach of contract by the contractor.

Insurance

Insurance shall be maintained with a company authorized to do business in the state of South Carolina. All policies shall contain a rider that the policies are non-cancelable without thirty (30) day's prior written notice to the District. Copies of the coverage shall be kept on the file with the District. The successful proposer shall furnish a certificate of insurance indicating specific coverage within ten (10) days after receipt of award. Failure to provide evidence of coverage shall result in the cancellation of the award.

The proposer shall not alter or permit alterations to the premises or bring or keep anything therein which will in any way increase the rate of fire insurance or conflict with any laws, ordinances or regulations of Federal, State or Local authorities.

The enumeration in the solicitation of the kinds and amount of liability insurance shall not abridge, diminish or affect the proposer's legal responsibilities for the consequences of accidents arising out of or resulting from the services of the proposer under the award/contract.

By submitting a proposal, the proposer covenants that if the proposer enters into a

Award/contract solicited by this Request for Proposal, then as Proposer, it shall reimburse the District for any expenses (including attorney's fees) of defending the validity of the Award/contract against any threatened or filed legal claims alleging any infirmity or invalidity of the award/contract, and that it will indemnify and hold the District, its officers, and board members, harmless for any loss or damages that may result from any such claim.

Property Damage

The District does not guarantee the prevention of any loss to the contractor due to vandalism, riot or forcible entry. The District will not be responsible for the loss of cash, inventory, cost of repairs or replacement of inventory or damage to any equipment.

Under no circumstances whatsoever shall the District be liable for any damage or injury to the goods or property of the Proposer. This freedom from liability includes, but is not limited to, damage or injury done or occasioned by or from electrical wiring, plumbing, water, gas, steam, or other pipes, or sewerage or the breaking of any electric wire, the bursting, leaking or running of water from any source, or for any damage occasioned by fire, explosion, falling plaster, electricity, smoke, or for the loss, theft or damage of any property of the Proposer or his/her employees or other damage, delay, inconvenience, or annoyance to the proposer arising from or because of weather, strikes, lockouts or other labor difficulties, or for any other reason whatsoever.

The Proposer waives any and all rights of recovery from the District for property damage, loss of use or compensation thereof, however occurring. Proposer must indemnify and save and hold harmless the District from claims, suits, actions, damages and costs of every name and description, arising out of or resulting from the performance of a resulting contract.

Performance Bond

The proposer receiving a notification of award shall be required to submit a performance bond in the sum of one hundred thousand dollars (\$100,000) or at least twenty-five percent (25%) of the annual estimated amount of sales prior to commencing operations and maintain it during the life of the contract. Performance bond must be issued by a surety company licensed in South Carolina, with an "A" minimum rating of performance as stated in the most current publication of "Best's Key Rating Guide, Property Liability" which shall show a financial strength rating of a least five (5) times the contract amount. Each bond must be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the surety and certified to include the date of the Performance Bond.

Purchase of Goods

The District shall not be responsible for any goods purchased by the contractor or any obligations or liabilities assumed or created by the contractor.

Alcoholic Beverages

The successful contractor shall not permit the vending of any alcoholic or intoxicating beverages/products via its vending machines on District property.

Provided Space and Utilities

The District will provide adequate space and utilities, including the ready connection for such, at the location of all vending equipment. The District will NOT provide office space, related utilities and operating expenses which includes phone, copier, fax and postage expenses.

Proposer Personnel

The proposer will employ and supervise all labor and management necessary for the efficient and effective operation of all vending operations satisfactory to the District. The District will reserve the right to screen all of the proposer's employees and the proposer agrees to honor the recommendations of the District with respect to the employment or retention of the proposer's employees at the District sites. The proposer shall not retain at the sites, any employee not acceptable to the District. The proposer's employees shall have no contact with any student or employee of the District except for those employees designated.

All service personnel shall be well groomed and uniformed. They shall comply with the rules and regulations with respect to personal hygiene and conditions of work as established or promulgated by the State Department of Health and Environmental Control, Food and Drug Administration and any other governmental agency. Proper conduct of all personnel shall be maintained.

Contractor shall furnish all on-site employees with uniforms and all personnel with nametags acceptable to the District. Employees shall wear uniforms and nametags on site at all times while performing services under the contract. The contractor's personnel shall strictly adhere to District regulations regarding personal behavior and safety. Contractor's service personnel must honor any check-in / check-out instructions established by the building principal or other person in charge of the facility. The contractor shall enforce and maintain proper conduct of its employees.

The District reserves the right to request the replacement of any proposer's personnel due to difficulties determined to be the result of inferior on-site practices/performance. The District shall furnish a thirty (30) calendar day notice unless the best interest of the District, its students and employees is at stake.

IMPORTANT: Student and Staff safety

The successful bidder shall be required to verify that criminal conviction inquiries/checks and pertinent criminal background inquiries/checks have been conducted on all of its employees and the subcontractors who may interact with staff and/or students during the performance of the awarded Scope of Work or who may have a need to enter District property related to the performance of the contract or who may have access to personal student or District personnel information.

All inquiries and background checks must be conducted annually or more frequently or as required by the District if the contractor has the potential to be in the presence of students. Student, parent and participant information shall be kept confidential and shall not be disclosed for any purpose.

Persons who are identified as a Sex Offender or violator as defined by the South Carolina Code of Laws (Ann. 2006), Article 7, Sections 23-3-400 to 23-3-500 or other statute or any other states' statutes and persons who have been convicted of Violent Crimes as defined by the South Carolina Code of Laws, 1976, Section 16-1-60; are prohibited from entering any of Spartanburg School District Seven schools at any time, including all District grounds and all District facilities. Persons employed by or under the direction of the contractor or any subcontractor who are under investigation or have been charged with crimes and/or convicted of crimes against children or crimes of a sexual or violent nature shall not be allowed on District property.

The District may in its sole discretion terminate any existing contract for the failure by the awarded firm, its subcontractors or any representative of the contractor or subcontractor to observe this requirement or for any violation of this solicitation's requirements. No penalty or other costs shall be levied against the District as a result of its decision to terminate the contract or award.

In addition to the above obligations of the successful bidder/awarded firm, all persons and contractor personnel having contact with students and/or any individual who enters onto District property may be subject to a national criminal background check at the discretion of the District prior to entry upon District property and the performance of any duties. All individuals entering District property shall be screened nationally for criminal sex offenses/Sex Offender status on automated equipment at each school or site.

Alcoholic Beverages, Illicit Drugs, Smoking and Weapons

The successful contractor shall not permit its personnel, representative or any subcontractor or other personnel to possess upon District property or within any vehicle transporting students and staff, any alcoholic beverages, illicit/non-prescribed drugs, tobacco products or weapons. Alcoholic beverages, illicit/non-prescribed drugs, tobacco products and weapons are not allowed on District property at any time. Any contractor related actions involving or the possession of, any of the aforementioned items while on District property may cause a cancellation of any award/agreement, at no cost to the District. Criminal charges may apply. Personnel who appear to be under the influence of any substance shall not be allowed to transport or come into contact with students or enter or remain on District property.

South Carolina Illegal Immigration Reform Act

By signing its bid or proposal, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the District, upon request, any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-

subcontractors to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at www.procurement.sc.gov).

Proposer Labor Requirements

Contractor shall comply with the Fair Labor Standard Act as amended and any other applicable statutes, including the South Carolina Payment of Wages Act, which may relate to pay. The contractor shall not involve the District and [or the state in any labor dispute in connection with the contractor and its personnel.

Contractor shall be responsible for the safety and health of all its workers on the job and shall comply with all applicable provisions of the Occupational Safety and Health Act. The proposer shall be fully responsible for the lawful usage, handling, storage and Disposition and maintenance of Material Data Safety Sheets (MSDS) of any chemical brought onto District premises and shall follow all federal, state and municipal laws and regulations as they apply. The District shall hold the proposer fully liable for any damages, fines or penalties that may be assessed against the District resulting from the proposer's failure to follow all applicable laws and regulations.

Conduct

In the event the Contractor has any complaint regarding clients, visitors, employees or student conduct in any vending area, such complaints shall be referred to the District's Vending Program Coordinator.

Disadvantaged Business Opportunity Requirements

The successful proposer shall perform this project in compliance with all Federal and State requirements concerning fair employment of all employees and applicants. Firms shall promote the employment of the disabled and disadvantaged and shall employ without regard or discrimination due to the reason of ethnic background, age, color, religion, gender, national origin or physical disability. Bidders should provide information regarding the use of minority and/or disadvantaged subcontractors, if applicable or if requested by the District. Assistance to minority and disadvantaged firms and individuals is available in accordance with the District's Minority Business Enterprise Utilization Plan by contacting the undersigned Procurement Officer.

Housekeeping

To facilitate housekeeping, all vending machines shall be located so that space around and under the machines can be easily cleaned and maintained, and so that insect and rodent harborage is not created. When mounted on legs, a minimum of six (6) inches of unobstructed space shall be provided beneath the unit. The contractor will maintain high standards of sanitation with respect to the vending services provided.

The contractor must supply adequate and sanitary collection receptacles for empty beverage containers for the purposes of sanitary disposal, deposit reclamation, and/or recycling collection. The contractor is responsible for prompt collections of containers from these receptacles to preserve cleanliness.

Exterminating Service

The District shall provide general exterminating services in all vending machine areas. Said exterminating service shall be coordinated between the proposer and the District's Vending Program Coordinator. The District shall not be held responsible for any damage of any nature, which may be caused as a result of exterminating service being provided.

Energy Conservation

Contractor shall observe all rules and regulations regarding energy conservation as promulgated by the District. It will be the responsibility of the proposer to keep abreast of the required energy conservation measures used by the District.

Recycled Products

The use of recycled and recyclable products is encouraged.

Contract Modifications

Additions and deletions to a contract may be negotiated after an award with the successful proposer during the contract period as long as the original Scope of Work is not materially altered; but shall not be binding unless confirmed in writing and signed by a District official authorized by policy to enter into agreements.

Termination of Contract

The proposer shall, upon termination or expiration of the contract, vacate the premises and surrender to the District equipment and furnishings previously received by it in good order and condition, reasonable wear and tear excepted.

The proposer also must, at the time of termination of the contract, remove within forty-five (45) calendar days of the termination of the contract, at its own expense and without damage to the building(s) and/or property, all moveable vending equipment and all movable auxiliary equipment furnished and installed by it and shall furnish and restore in good order and condition those areas utilized for these operations. See the Terms and Conditions section of this RFP for further termination information.

Initial Contract Period

Date of award and continuing through three (3) full years. A resulting contract may extend on each anniversary date unless either party elects not to extend the contract. After the first three years, the first extension cannot exceed one year and will be renewed if the District chooses to do so for one more year through 2024. If the proposer elects not to extend the agreement on the anniversary date, the proposer must notify the District of its intention in writing ninety (90) calendar days prior to the anniversary date.

Price Adjustment based on Proposer's Costs

Any proposer request for changes in contract rates must be submitted to the District representative at least ninety (90) calendar days prior to the automatic renewal date. (Price increases will become effective only if approved in writing by the District). The maximum increase shall not exceed the unadjusted percent change from July 1 of the previous year shown

in the Consumer Price Index for Urban Consumers (CPI-U), South Region, to July 1 of the current year.

Records

As required by the District, records shall be maintained by the awarded proposer in compliance with applicable municipal, federal or state laws, ordinances, codes, and as prescribed by SSD7. At any time during normal business hours and as SSD7 may deem necessary, there shall be made available to SSD7 for examination, all of the proposer's records with respect to all matters covered by this and any subsequent agreement with SSD7. SSD7 may audit, examine and/or collect excerpts or transcripts from such records including, but not limited to, invoices, materials, payrolls, records of personnel, conditions of employment or any other data as may be pertinent.

Indemnity

The proposer agrees to indemnify and hold harmless the District and the District's members, officers, Board of Trustees, employees, servants and agents, from and against any and all liabilities, losses, damages, costs and expenses of any kind (including, without limitation, reasonable legal fees and expenses in connection with any investigative, administrative or judicial proceeding, whether or not designated a party thereto) which may be suffered by, incurred by or threatened against the District or any members, officers, employees, servants or agents of the District on account of or resulting from injury, or claim of injury, to person or property arising from the awarded proposer's actions or omissions relating to this Agreement, or arising out of the proposer's breach or failure to perform any term, covenant, condition or agreement herein provided to be performed by the proposer.

The District shall not indemnify and/or hold harmless any proposing entity or its representatives as this action is not statutorily allowed by South Carolina law.

Warranty for Services

The proposer warrants and represents to the District that the awarded firm possesses the legal standing, financial strength, training background, experience, expertise and qualifications to undertake and to carry out the services required in this solicitation. The proposer further warrants and represents that the required services will be performed in a professional, thorough manner and in the best interest of the students, parents and the general public consistent with accepted industry standards.

Permits Licenses and Taxes

The proposer shall, at its own expense, prior to an award and prior to commencing services/operations on behalf of the District or under contract with the District, shall acquire all necessary permits, licenses and other approvals as required by law to provide the required services and/or actions in conjunction with a contract award with the District. It is recommended that interested firms contact the following to learn of any pertinent requirements or licenses:

- The South Carolina Secretary of State's office (www.scsos.com)
- The South Carolina Department of Revenue

- The City of Spartanburg, South Carolina

The District shall not interpret the requirements of other public entities on behalf of the proposer.

Firms shall obtain all necessary permits and licenses required by local, state and Federal law and regulations prior to any award or agreement and shall remain in compliance with all applicable statutes and pertinent regulations throughout the term of performance. Should any permits or licenses be revoked or lapse during the period of performance, the undersigned Procurement Officer shall be notified immediately.

The firm shall pay all excise taxes, retail taxes and other fees imposed. The firm assumes full responsibility for payment of all State and Federal taxes for unemployment, pensions or any Social Security legislation for all its employees and will further comply with all requirements that may be specified in regulations hereafter promulgated by the District's administrative officials.

Operational Matters

All facilities, equipment and services to be provided to support this program by the proposer shall be at the proposer's expense. The proposer shall maintain full and accurate records and accounts in connection with the operations. All such records shall be retained by the contractor for a period of five (5) years and may be audited by the District's designated representative at any time during regular working hours.

If a proposer is asked to attend a meeting for clarification at any time, it shall do so at its own expense.

Use of District Name

The awarded proposer shall not use the name of the District in advertising or in seeking or joining into contracts with suppliers, customers or for any other manner. The proposer shall make all of its contracts in its own name and the awarded firm shall be responsible for its financial obligations and contracts, not the District.

IMPORTANT NOTICE

The contract resulting from this RFP may be awarded to the responsive and responsible firm(s) or individual(s) whose proposal is determined to be most advantageous to the District, taking into consideration the proposal and the compliance with the evaluation factors set forth herein; however, the right is reserved to reject any and all, or portions of, proposals received and in all cases, the District will be the sole judge as to whether an entity's proposal has or has not satisfactorily met the requirements of the RFP.

The proposal shall contain all costs and expenses that the proposer shall charge the District or member of the public should it be awarded a contract. No hidden costs, fees or expenses shall be honored or paid at any time.

The District is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous nor will it be required to furnish any information regarding the RFP process. The award to the successful proposer regarding this solicitation will be posted on the website at www.spartanburg7.org. (Departments, Business Finance, Procurement, Bids)

Pre-Payment (When Applicable)

The District shall not approve or process payment to an awarded firm or its subcontractor prior to the delivery of product or the service(s) being performed or upon agreed upon milestones. Proposers or its representatives that do not honor this requirement shall not receive payment and may have their contract cancelled with no penalty levied against the District.

Subcontracting

No portion of this contract shall be subleased, assigned, transferred, or conveyed without the expressed prior written approval from a SSD7 Procurement Department or other authorized District designee. Proposed subcontractors shall be identified in the proposal.

While performing under this solicitation and subsequent award, a firm/individual/supplier who delivers material and/or a service to a District site at the direction of a contractor and/or subcontractor shall be considered under the supervision of the contractor and/or subcontractor and shall be in compliance with all safety and security requirements. Contractor's and subcontractor's employees are not to interact with students at any time. Contractor's and subcontractor's employees are not to be in areas where students are present without prior authorization from the school's principal or designee.

Acknowledgement

By submitting a solicitation response, the proposing firm acknowledges that it has had the opportunity to inquire about the District's Procurement Code and Regulations, this solicitation and other pertinent policy.

By submitting a solicitation response, the proposing firm acknowledges that it is in compliance with all applicable local, state, and federal laws.

By submitting a proposal, the firm acknowledges that Spartanburg School District Seven's Procurement Code and Regulations supersede and govern any and all documents and/or policies, whether stated or implied. Spartanburg School District Seven reserves the right to reject any or all proposals or portions of proposals and to waive any informalities or technicalities so as to purchase in the best interest of the District.

Key Event Dates

Deadline for Questions – June 12, 2019 at 10:00 A.M. EST

Public Opening- June 19, 2019 at 2:00 P.M. EST

Postponements

A proposal recording meeting or a pre-proposal conference shall be postponed if the District's Procurement Department is closed for any of the following reasons: (1) Causes beyond the control of the District (e.g., fire, flood, weather conditions, etc.), or (2) Emergency or unanticipated events that interrupt normal District or Procurement operations. The postponed event (opening or conference) shall automatically be rescheduled to the next full and complete District business day after the published date.

A District business day does not include a day when business commences after 8:00 A.M. EDT/EST or after an announced opening delay or a closure. Firms should consult the District's website or local media regarding closures. The Procurement Department shall not be open or staffed to receive proposals/bids or to answer questions when an announced closing is in force.

Inquiries and Comments

Questions and comments regarding this project or the solicitation process shall be submitted in writing to Pamela Phillips, Procurement Officer, at pPhillips@spart7.org via email. Inquiries and comments may be mailed to the Spartanburg School District Seven, PO Box 970, Spartanburg, SC 29304, and should be received no later than June 12, 2019 at 10:00 AM, EST. Responses to any written inquiries/comments shall be in the form of an addendum issued by the District after the Inquiry Deadline has been reached. Written or verbal questions/comments received after the Inquiry Deadline shall not be addressed.

NOTE: Verbal inquiries/comments received at any time will not be addressed. Communication shall be in a written form. Prospective proposers will be notified by addenda after the Inquiry Deadline, not before, concerning any changes or clarifications to contract terms, scope of work and/or specifications.

Any firm or individual that contacts or attempts contact with any District personnel/representative other than by the method described above shall have their proposal rejected and shall not be eligible for an award. All inquiries and comments shall be directed to the Procurement Representatives noted above.

Proposal Delivery/Solicitation Conditions

A proposal shall be in a sealed envelope and the following information shall be clearly marked on the envelope:

Beverage Vending Program
RFP # 18-19-13

A total of one (1) original hardcopy paper proposal and five (5) paper copies and five (5) flash drives containing proposal copies, shall be received in their entirety no later than June 19, 2019 at 2:00 P.M. EST. All proposals shall be identical to one another. Alternate submissions shall not be allowed.

Deliver proposals to: Spartanburg School District Seven

Procurement Department
610 Dupre Drive
Spartanburg, SC 29307

Do not deliver a proposal to any other District location.

All solicitation responses shall be received at Spartanburg School District Seven at 610 Dupre Drive, Spartanburg, SC 29307, no later than the time specified in this solicitation. Solicitation responses shall be in the physical possession of a Procurement Department employee prior to the due time or the solicitation response shall be determined to be late once the due time has occurred.

NOTE: Proposers are responsible for physically handing the proposal to a Procurement Department employee prior to the proposal due time/date. Do not hold the proposal until the recording meeting begins. Do not deliver the proposal to the school or any other location.

Responses that are in another SSD7 location, room, department or other area at the solicitation due time other than the Procurement Department shall not be accepted. If there is doubt as to the location of the Procurement Department, individuals may contact the District for directions. The District is not responsible for the proposer's interpretation of any directions provided. The District is not responsible for traffic, parking availability, road closures, delivery services or weather conditions.

NOTE: Proposals received or date stamped after the due time shall not be accepted. Faxed or emailed proposals shall not be accepted.

Spartanburg School District Seven assumes no responsibility for the delivery of any solicitation, addendum, solicitation response, or any other correspondence by the U.S. Postal Service, a delivery service, electronic transmission, facsimile or any other method.

At the official due time, only the names of the proposers will be publicly read aloud. No further information will be provided at the opening in accordance with the District's Procurement Code. Attendance at the public recording is not required in order to have a proposal evaluated.

Prices must remain in effect during evaluation for a minimum for ninety (90) calendar days from the due date. Prices submitted shall be inclusive of all costs that the proposer expects the District to pay. The proposing entity's prices shall include all services and ancillary requirements required to perform the services in accordance with the solicitation.

Jurisdiction

The District is not an agency of the state and is not governed by the South Carolina Consolidated Procurement Code and Regulations. The District is governed by its own Procurement Code and Regulations which may be accessed on the District's Procurement Department website.

Evaluation After Award of Contract

The District will evaluate the selected proposer's performance as needed, as regards to meeting the District's standards and the goals contained in the solicitation. The District may also evaluate the proposer's records, cost reporting compliance with deadlines and time frames, cost management, value awareness, schedule adherence, quality control, accuracy of reports, relationship with District employees, any communications with District representatives and professionalism. The precise criteria for evaluation of performance will consist, at a minimum, of the terms of this RFP and others may be developed after award of the contract.

Technology Requirement (When Applicable)

The following requirement has been prepared by the District's Education Technology Services (ETS) department for compliance, where applicable:

"For all COTS (commercial off the shelf applications), the Offeror shall submit security audit documentation which meets State and Federal law along with applicable regulatory standards including, but not limited to: the South Carolina Public Records Act, Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), Pupil Privacy Rights Act (PPRA), Individuals with Disabilities Education Act (IDEA), Gramm-Leach Bliley Act (GLBA), and Payment Card Industry Data Security Standard (PCI-DSS). Applications must also meet or exceed verifiable Spartanburg School District Seven security review and security application testing specifications, including, but not limited to: Open Web Application Security Project (OWASP), The Web Application Security Consortium (WASC), and United States Computer Emergency Readiness Team (US-CERT) National Vulnerability Database (NVD) as part of the Request for Proposal or Invitation for Bid submission. " End of ETS requirement.

The proposer's interest in the District is appreciated.

Attached: Annual Usage Reports-Case Sales

District Facilities Information

The Spartanburg School District Seven is recognized as a leader in education. The area served by the District covers 50 square miles.

Approximately 1200 employees serve the 7500 students who attend schools and centers in the area. Information from School Profiles lists the following sites:

<u>Site Description</u>	<u>Number of Sites</u>
District Office	1
Elementary (K-5)	5
Middle (6-8)	3
High (9-12)	1
Career Centers	1
Adult Education	1
Alternative School	1
Special Education	1
DSOC	1
Early Learning Center	1
The Franklin School	1
Meeting Street Academy	1
Houston Center	1

High schools provide a variety of athletic programs to teams that may include baseball, basketball, cheerleading, cross country, football, golf, soccer, swimming, tennis, track, volleyball and wrestling. The middle school sports may include basketball, soccer, baseball, volleyball and softball. After school programs at elementary and middle levels are an integral part of the District's mission to serve all students.

Activities before, during and after the regular school day and at athletic and other events offer a unique and profitable opportunity to the successful proposer.

Coke Volume		
Fiscal Year	FY 18	FY 19
Description	July 17 - June 18	July 18 - June 19
Full Service Vending	934	907
Total cases purchased	2303	2230

PROPOSAL CERTIFICATION

RFP # 18-19-13

As an authorized representative of the Proposer, I hereby certify that the information stated in this proposal are accurate and binding for not less than ninety (90) calendar days from the solicitation due date and is offered to the District in good faith and agrees to be bound by the solicitation's conditions. All applicable costs and charges are accurate and complete as stated in the proposal and are inclusive of all costs the District is expected to pay. If an award is not made within ninety (90) calendar days, it shall be incumbent upon the Proposer to notify the District, in writing, if it does not want its proposal further considered. Failure to notify the District shall mean that the proposal remains valid until an award is made or the solicitation is cancelled.

I further certify that the Proposer will deliver the product(s), service(s) and/or material(s) as required by the Request for Proposal. No additional costs or payments to any entity, including the Proposer, shall be requested of the District due to any miscalculation, deficiency or other cause later discovered.

I certify that the Proposer has availed itself of every opportunity to understand the Request for Proposal, the District's Procurement Code and Regulations and other pertinent District policy.

By submission of a proposal, I certify that the Proposer has read and understands all of the requirements and conditions of the Request for Proposal and shall be bound by such without exception. Therefore, the undersigned respectfully submits its proposal.

Name of Firm

Name of Authorized Representative

Title

Signature

Date _____

Telephone/FAX Number _____

Note: It is required that this Proposal Certification form be completed and returned unaltered with the proposal.

SPARTANBURG COUNTY SCHOOL DISTRICT 7
South Carolina Illegal Immigration Reform Act

Compliance Agreement

The new South Carolina Illegal Immigration Reform Act (Act No. 280 of 2008) provides that a public employer may not enter into a "services contract" with a contractor (or subcontractor or sub-subcontractor) for the performance of services within South Carolina unless the contractor agrees to comply with the requirements of the law.

By signing this Agreement with Spartanburg County School District 7, the contractor certifies that it will comply with all applicable provisions of the South Carolina Illegal Immigration Reform Act (Act No. 280 of 2008). Furthermore, the contractor agrees to provide any documentation required to establish the applicability of those provisions of the Act to the contractor, its subcontractors, and sub-subcontractors, as well as any documentation required to establish compliance with those provisions of the Act by the contractor, its subcontractors, and sub-subcontractors. Finally, the contractor agrees to include in any contracts with its subcontractors and sub-subcontractors language requiring those contractors to also comply with the applicable provisions of this Act.

I hereby agree to comply with all applicable provisions of the South Carolina Illegal Immigration Reform Act (Act No. 280 of 2008; Title 8 Chapter 14 of the S.C. Code Annotated).

Company Name:

Address:

Name:

Signature:

Date:

MINORITY PARTICIPATION - Voluntary Minority Participation

Is the bidder a South Carolina Certified Minority Business? Yes No

Is the bidder a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

For a list of certified minority firms, please consult the Minority Business Directory, which is available at the following URL: <http://www.govoepp.state.sc.us/osmba/>

Spartanburg School District Seven

GENERAL TERMS AND CONDITIONS

While effort has been made to separate substantive and procedural matters through the division of a solicitation or agreement into various parts, the distinctions between such categories are not always exact. Consequently, offerors are advised that all contents of a solicitation or agreement will constitute the substantive terms and conditions of the relationship, if any occurs, between the offeror and the District in accordance with this document. The District's General Terms and Conditions shall govern and take precedence as the contract between the District and the awarded proposer. The terms of the agreement between the District and the successful proposer shall comply with the requirements contained in this solicitation and the District's General Terms and Conditions.

DEFINITIONS

The terms, "vendor", "contractor", "prime contractor", "firm", "offeror", "proposer responder", "supplier", "entity" or "bidder" may be used interchangeably and refers to the entity offering a proposal. These terms are defined as including a legal business association of one (1) or more persons existing at the time of the proposal submission. The term "Agreement" means any transaction or contractual arrangement contemplated or created as a result of, arising out of, or relating to the solicitation and subsequent award. The terms, "Spartanburg School District Seven", "Spartanburg County School District Seven", "Spartanburg School District 7", "Customer", "Owner", "District", "SSD7", "Board of Trustees" and "Board" may be used interchangeably and refers to the entity issuing the solicitation, receiving and reviewing the proposals and issuing an award. The term "Day" or "Days" refers to calendar days, unless noted otherwise.

GOVERNING LAW

The contractor or offeror shall comply with the laws of the State of South Carolina which require that it be authorized and/or licensed to bid and/or conduct business in said State. By signing an Agreement or by offering a bid or proposal or agreement, contractor agrees to subject itself to the jurisdiction and process of the District's Procurement Code and Regulations, the courts of the State of South Carolina or federal courts as to all matters and disputes arising or may arise under and in regard to the solicitation, Agreement and the performance thereof, including any questions as to the liability for taxes, licenses or fees levied by the State.

The solicitation and/or Agreement and any dispute, claim or controversy relating to the solicitation and/or Agreement shall, in all respects, be interpreted, construed, enforced and governed by and in accordance with the Procurement Code and Regulations of Spartanburg School District Seven and the laws of the State of South Carolina. All disputes, claims or controversies relating to the Agreement shall be resolved exclusively by the District's Chief Procurement Officer or Purchasing Agent/Procurement Director in accordance with Article XIV of The Spartanburg School District's Procurement Code or in the absence of jurisdiction, the Court of Common Pleas for, or a federal court located in, Spartanburg County, State of South Carolina. Contractor or offeror agrees that any act by the District regarding the solicitation and/or Agreement is not a waiver of either the District's sovereign immunity or the District's immunity under the Eleventh Amendment of the United States' Constitution. As used in this paragraph, the term "Agreement" means any transaction, contract, understanding or agreement arising out of, relating to, or contemplated by the pertinent solicitation and/or agreement between the proposer and the District.

The District shall not accept, enter into or sign any proposed agreement(s), document(s), offer(s), contract(s), leases(s) and/or provision(s) that materially conflicts with the District's General Terms and Conditions, the requirements of a solicitation or which are determined not to be in the best interest of the District.

The solicitation and the District's General Terms and Conditions shall govern and take precedence as the contract between the District and the awarded entity. The terms of the agreement between the District and the successful/awarded entity shall comply with the requirements contained in this solicitation and the District's General Terms and Conditions.

CONTRACTUAL NEGOTIATIONS

Contract negotiations, if applicable, may be started at the District's discretion, with the apparent successful offeror. If any points/issues exist that cannot be resolved, so that a final contract, to the mutual satisfaction of all parties,

can be reached, negotiations may be initiated with the next qualified offeror. All contractual documents submitted will be subject to approval of the District.

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE

(a) Any contract resulting from this solicitation shall include the following documents: (1) a Record of Negotiations, if any, executed by the vendor and the District, (2) documentation regarding the clarification of an offer, if applicable, (3) the solicitation, as may be amended, (4) modifications, if any, to an offer, if accepted by the District, (5) the vendor's offer, (6) any statement reflecting the District's final acceptance (award), (7) purchase orders, and (8) any related contracts or agreements executed by the District and the proposer. These documents shall be read to be consistent and complimentary. Any document signed or otherwise agreed to by persons other than the Executive Director of Finance or a Procurement Officer shall be void and of no effect.

OFFEROR RESPONSIBILITY

The offeror is the entity that is proposing or offering to perform work or supply service(s) and/or material(s) to the District. Each offeror shall fully acquaint itself with conditions relating to the scope and restrictions attending the performance of obligations under the conditions of this solicitation or agreement. The omission of an offeror to acquaint itself with existing pre-contract conditions or post-contract consequences shall in no way relieve such offeror of any obligation with respect to the proposal or to any contract resulting from a solicitation or agreement. Offerors are notified that failure to inspect, familiarize or otherwise gather information as to the total cost to the District will, in addition to any and all other remedies available, create cost difference liabilities and claims against the ultimately successful contractor. Offerors shall notify the District of all costs reasonably expected.

BID/PROPOSAL/AGREEMENT CONSTITUTES OFFER

By submitting a bid/proposal or agreement, the offeror agrees to be governed by the terms and conditions as set forth in the solicitation document or proposed agreement and the District Procurement Code and Regulations. Any bid or proposal response or proposed agreement containing variations from the terms and conditions set forth herein may, at the sole discretion of the District, render such bid or proposal or agreement non-responsive. Any inconsistencies between the solicitation and any other contractual instrument shall be governed by the terms and conditions of the solicitation or proposed agreement, except where subsequent amendments to any contract resulting from the award are specifically agreed to in writing by the parties in order to supersede any such provisions of the solicitation or other contractual document.

SPECIFICATIONS MANDATORY

The offeror must meet all of the mandatory specifications and requirements set forth in the solicitation or proposed agreement. By incorporating said specifications into the offeror's response, subject to acceptance by the District of any amendments hereto as submitted by the offeror, the offeror is agreeing to comply with said solicitation specifications or agreement. Failure to provide mandatory evidence of capability will result in a low evaluation ranking of the offeror's bid/proposal. Items designated as evaluation factors will be evaluated and rated in accordance with the evaluation criteria, if applicable.

INQUIRIES

Every effort has been made to ensure that all information needed by an offeror is included herein. If an offeror finds that it cannot provide a response without additional information, it may submit written questions to the person designated herein on or before the deadline set forth in the solicitation. Questions shall not be accepted by the District after the specified date. All replies to questions will be in writing and contained within an addendum. When a question received by the District is found to be previously and sufficiently addressed in the solicitation, that question will be returned to the proposer with a reference to the part of the solicitation containing the answer. All questions and written replies will be distributed to all known interested firms and individuals via an addendum and will be regarded as a part and parcel of the solicitation.

AMENDMENTS OR ADDENDA

If it becomes necessary to revise any part of the solicitation or agreement, amendments in the form of an addendum will be provided in writing to all known, interested firms and individuals.

ALL AMENDMENTS TO AND INTERPRETATIONS OF A SOLICITATION SHALL BE IN WRITING. THE DISTRICT SHALL NOT BE LEGALLY BOUND BY ANY AMENDMENT ADDENDUM INFORMATION OR INTERPRETATION THAT IS NOT IN WRITING.

COMPANY EXPERIENCE AND REFERENCE ACCOUNTS

If requested, interested firms and individuals must provide reference accounts where the services and/or equipment/material(s) offered were similar to the services and/or equipment/material(s) requested in the solicitation. The intent is to show company experience in receiving contracts for, and delivery of, goods and services similar to those proposed. Information should include the name, address, telephone number, and title of the person to contact for inquiry as to the proposer's experience and performance. Referenced accounts must not be company owned or an affiliate of the bidder or proposer.

The District reserves the right to consider historic information and facts about the bidder or proposer, whether gained from the submitted response, question and answer conferences, references or any other source, during the evaluation process.

SOLICITATIONS/AGREEMENTS SIGNED

All submittals shall be signed by a representative of the entity authorized to commit to the provisions of the submittal. Unsigned bids/proposals will be rejected unless an authorized representative is present at the bid/proposal opening and provides the needed signature, provided that the discovery is made prior to the recording of the contractor's bid/proposal. Any proposed and agreed upon contract shall be signed by an authorized representative of the offeror.

PUBLIC OPENING

All bids/proposals received in response to a solicitation will be recorded publicly at the time and place specified in the solicitation. The name of each offeror shall be announced, recorded and made available for scheduled public inspection.

POSTING OF AWARD

Solicitation awards shall be posted in the District's Procurement Department located at 2 Space Drive, Taylors, South Carolina. Awards may be viewed during normal business hours. The Procurement Department may be contacted to determine if a particular award has been posted.

RIGHT TO PROTEST

Any prospective bidder, proposer, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest in writing to the Purchasing Agent/Director of Procurement within fifteen (15) calendar days of the date of issuance of the Invitation for Bid/Request for Proposal or other solicitation documents, whichever is applicable, or any amendment thereto, if the amendment is at issue.

Any actual bidder, proposer, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest in writing to the Purchasing Agent/Director of Procurement within fifteen (15) calendar days of the Posting Date as noted on the award document.

A protest shall be submitted in writing to the Purchasing Agent/Director of Procurement, Spartanburg School District Seven, 610 Dupre Drive, Spartanburg, SC 29307 and shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

It shall be noted that the District may exercise its right to require a protest bond or irrevocable letter of credit from a protesting party when applicable.

CLARIFICATIONS

The District reserves the right, at any time after opening and prior to award, to request from any apparently responsible bidder or proposer, clarification(s) of the bid/proposal submitted to the District, address questions or to seek or provide other information regarding the offeror's submittal/response. This process may be used for such purposes as providing an opportunity for the offeror to clarify its bid/proposal in order to assure mutual understanding and to determine acceptability.

PURCHASE ORDERS

Contractor shall not perform any work prior to the receipt of a Purchase Order from the District. The District shall order any supplies or services to be furnished via a solicitation method by issuing a Purchase Order. Purchase Orders may be used to elect any options available pursuant to a solicitation; e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of the solicitation.

PATENT AND COPYRIGHT LIABILITY

If notified promptly in writing by the District of any actions (and all prior claims relating to such action) brought against the District, based on a claim that the District's use of the services or any products offered, including software, infringes a United States patent or copyright, the contractor will defend and indemnify the District in such action at its expense and will pay the costs and damages awarded in such action, provided that the contractor shall have sole control of the defense of any such action and all negotiation for its settlement or compromise. The District shall give the Contractor prompt written notice of such claim and full right and opportunity to conduct the defense thereof, together with full information and reasonable cooperation. No cost or expenses shall be incurred for the account of the contractor without its written consent. If principles of government or public law are involved, the District may participate in the defense of any action. If, in the opinion of the contractor, the products furnished there under are likely to, or do become, the subject of a claim of infringement of a United States patent or copyright, then, without diminishing its obligation to satisfy a final award, the contractor may, at its option and expense, (a) obtain the right for the District to continue to use such goods; or (b) substitute, with prior notice and District approval, for the alleged infringing products other equally suitable products that are satisfactory to the District; or (c) take back, with District approval, such products, provided however, that the contractor will not exercise option (c) until the contractor and the District have evaluated options (a) and (b). In such event, contractor will reimburse the District for the purchase price of any goods removed pursuant to option (c).

TAXES

Prices shall include all applicable taxes unless otherwise noted. The current tax rate in South Carolina is seven percent (7%). In the event that the contractor fails to pay or delays in paying to any taxing authorities sums paid by the District to the contractor, the contractor shall be liable to the District for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay.

PRICE ADJUSTMENT

Any request for price increase must be submitted to the user location and the District's Procurement Department by the contractor at least sixty (60) calendar days prior to any proposed contract extension. The price increase will only become effective if agreed to in writing by the District's Procurement Department. The maximum increase shall not exceed three percent (3%) or the adjusted percent change from the previously reported period shown in the Producers Price Index (PPI), or in the Consumer Price Index for all urban consumers (CPI-U), whichever is less at the time of renewal.

TERMINATION BY DISTRICT

TERMINATION FOR NON-APPROPRIATIONS

In the event no funds or insufficient funds are appropriated and budgeted in any fiscal year for payments due under this Agreement, or there is no further need for the equipment, material(s), service(s) and program products to satisfy the need for which same were acquired herein, then the District shall promptly notify the contractor of such occurrence, and this Agreement shall create no further obligation of the District as to such current or succeeding fiscal year and shall be null and void, except as to the portions of payments herein agreed upon for funds which shall

have been appropriated and budgeted. In such event, this Agreement shall terminate on the last day of the fiscal year for which appropriations were received without penalty or expense to the District of any kind whatsoever.

Subject to the provisions below, any contract resulting from this solicitation, or any portion thereof, may be terminated by the District providing a sixty (60) calendar day advance notice in writing is given to the contractor, unless the District agrees to a different notice period.

SUSPENSION BY DISTRICT

The District reserves the right to suspend the Contractor's work with or without cause upon three (3) calendar day's written notice. If the suspension was not due to any default by the contractor, the District will reasonably and equitably adjust the amount(s) to be paid to the Contractor when or if work is resumed.

TERMINATION BY CONTRACTOR

Requests for termination of a contract by the contractor must be received in writing by a District Procurement Officer at least sixty (60) calendar days prior to the requested contract termination date.

WAIVERS

No waiver of right, obligation, or default shall be implied, but must be in writing, signed by the party against whom the waiver is sought to be enforced. One or more waivers of any right, obligation, or default shall not be construed as a waiver of any subsequent right, obligation, or default.

APPROVAL OF PUBLICITY RELEASES

The contractor shall not have the right to include the District's name in its published list of customers or use of the District or individual school logo without prior approval of the District. The contractor agrees not to publish or cite in any form any comments or quotes from District staff. Contractor further agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by the District without the written consent of an authorized District official.

AFFIRMATIVE ACTION

The successful bidder shall perform this project in compliance with all Federal and State requirements concerning fair employment of all employees and applicants. Vendors shall promote the employment of the disabled and disadvantaged and shall employ without regard or discrimination due to the reason of ethnic background, age, color, religion, gender, national origin, or physical disability. Vendors should provide information regarding the use of minority subcontractors if applicable or if requested by the District. Assistance to minority and disadvantaged firms and individuals is available in accordance with the District's Minority Business Enterprise Utilization Plan. Vendors should contact the Procurement Department with questions regarding this plan.

BANKRUPTCY

(a) Notice. In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish written notification of the bankruptcy to the District. This notification shall be furnished within five (5) calendar days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all District contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(b) Termination. This contract is voidable and subject to immediate termination by the District upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

INDEMNIFICATION

Spartanburg School District Seven from the use of any materials or equipment furnished by the contractor or actions by the contractor, provided that such liability is not attributable to negligence on the part of the District or failure of the District to use the materials in the manner outlined by the contractor.

The District shall not indemnify and/or hold harmless any proposing entity or its representatives as this action is not statutorily allowed by South Carolina law.

CONTRACTOR RESPONSIBILITY

The contractor alone will be held solely responsible to the District for performance of all contractor obligations under any contract resulting from the awarded solicitation.

The contractor warrants that services will be provided in a professional manner. The contractor shall be responsible for the full performance of any subcontractors and/or suppliers and the District shall rely solely upon said contractor for project compliance and proper contractual performance.

CONTRACTOR'S USE OF DISTRICT PROPERTY

Upon termination of the contract for any reason, the District shall have the right to possession of all District properties, including, but not limited to, current copies of all District application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the District without the District's written consent, except to the extent necessary to carry out the work. All District property and information is to be considered confidential in nature and shall not be disseminated or transferred without the District's written authorization.

IMPORTANT: Student and Staff Safety

The awarded entity shall be required to verify that criminal conviction inquiries/checks and pertinent criminal background inquiries/checks have been conducted on all of its employees and the subcontractors who may interact with staff and/or students during the performance of the solicitation requirements/awarded Scope of Work or who may have a need to enter District property related to the performance of the contract or who may have access to personal student or District personnel information.

Persons who are identified as a Sex Offender or violator as defined by the South Carolina Code of Laws (Ann. 2006), Paragraph 223-3-400 or other statute or any other states' statutes and persons who have been convicted of Violent Crimes as defined by the South Carolina Code of Laws, 1976, Section 16- I -60; are prohibited from entering any of Spartanburg School District Seven direction of the contractor or any subcontractor who are under investigation or have been charged with crimes and/or convicted of crimes against children or crimes of a sexual or violent nature, shall not be allowed on District property.

Firms that employ persons convicted of crimes against children, violent crimes or other serious offenses that may jeopardize the safety of students and staffs, in the opinion of the District, are prohibited from receiving an award or conducting work on District property. All firms or individuals offering services shall conduct criminal background checks on its employees prior to the performance of work as the result of any award.

While performing under this solicitation and subsequent award, a firm/individual/supplier who delivers material and/or a service to a District site at the direction of a contractor and/or a subcontractor shall be considered under the supervision of the contractor and/or subcontractor and shall be in compliance with this requirement. Contractor's and subcontractor's employees are not to interact with students at any time. Contractor's and subcontractor's employees are not to be in areas where students are present or may be present without prior authorization from the school's principal or designee.

Failure by the awarded firm, its subcontractors or any representative of the contractor or subcontractor to observe this requirement or any violation of this solicitation's requirements shall result in the immediate termination of any existing contract and no penalty or other costs shall be levied against the District.

NOTE: All personnel entering District property and/or having contact with students or staff on District property shall be subject to a South Carolina State Law Enforcement Division (SLED) background/criminal check/investigation prior to being allowed entry or the performance of any duties. All schools have automated equipment which allows instant verification of an individual 's status.

IMMIGRATION REQUIREMENTS

By signing the bid or proposer, the bidder or proposer certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the District upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to the bidder and/or its subcontractors or sub-subcontractors; or (b) that the bidder and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." The bidder agrees to include in any contracts with its subcontractors, language requiring the subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) to include in the subcontractor's contracts with the sub-subcontractors, language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

Permits Licenses and Taxes

The bidder shall, at its own expense, prior to an award and prior to commencing services/operations on behalf of the District or under contract with the District, shall acquire all necessary permits, licenses and other approvals as required by law to provide the required services and/or actions in conjunction with a contract award with the District. It is recommended that firms contact the following to learn of any pertinent requirements or licenses:

The South Carolina Secretary of State's office (www.scsos.com)

The South Carolina Department of Revenue

The City of Spartanburg, South Carolina

The District shall not interpret the requirements of other public entities on behalf of the proposer.

Firms shall obtain all necessary permits and licenses required by local, state and Federal law prior to any award or agreement and shall remain in compliance with all applicable statutes and pertinent regulations throughout the term of performance. Should any permits or licenses be revoked or lapse during the period of performance, the undersigned Procurement Officer shall be notified immediately.

The awarded entity shall pay all excise taxes, retail taxes and other fees imposed. The entity assumes full responsibility for payment of all State and Federal taxes for unemployment, pensions or any Social Security legislation for all its employees and will further comply with all requirements that may be specified in regulations hereafter promulgated by the District's administrative officials.

By submitting a bid/proposal the bidder/proposer affirms that it shall possess and maintain all required license(s) prior to award and throughout the period of performance.

INSURANCE

Contractor shall maintain, throughout the performance of its obligations under this Agreement, a policy or policies of Worker's Compensation insurance with such limits as may be required by law, and a policy or policies of general liability insurance insuring against liability for injury to, and death of, persons and damage to, and destruction of, property arising out of or based upon any act or omission of the contractor or any of its subcontractors or their respective officers, directors, employees or agents. Such general liability insurance shall have limits sufficient to cover any loss or potential loss resulting from a solicitation and/or contract.

CONTRACTOR'S LIABILITY INSURANCE

(l) Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the contractor from the types of claims set forth below which may arise out of or result from the contractor's operations under the contract and for which the contractor may be legally liable, whether such operations be by the contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's

employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting thereof; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the Contractor's obligations under the provision entitled Indemnification — Third Party Claims.

(2) Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises — Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for contractor's obligations under the provision entitled Indemnification — Third Party Claims, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.

(3) The insurance required by this paragraph shall be written for not less than the following limits of liability or as required by law, whichever coverage is greater.

COMMERCIAL GENERAL LIABILITY:

General Aggregate (per project) \$1,000,000

Products/Completed Operations \$ 1,000,000

Personal and Advertising Injury \$ 1,000,000

Each Occurrence \$ 1,000,000

Fire Damage (Any one fire) \$ 50,000

Medical Expense (Any one person) \$ 5,000

BUSINESS AUTO LIABILITY (including All Owned, Non-owned, and Hired Vehicles):

Combined Single Limit \$5,000,000

OR

Bodily Injury & Property Damage (each) \$750,000

WORKER'S COMPENSATION:

State Statutory

Employers Liability \$100,000 Per Acc.

\$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee

(4) Required Documentation. (a) Prior to commencement of the work, contractor shall provide to the District a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days' notice prior to cancellation, name every applicable using governmental unit (as identified on the cover page) as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, contractor shall provide to the District a written endorsement to the contractor's general liability insurance policy that (i) names the District as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named governmental unit(s) has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the District as secondary and noncontributory. (c) Both the certificate and the endorsement must be received directly from either the contractor's insurance agent or the insurance company.

(5) Contractor shall provide a minimum of thirty (30) days written notice to the District of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.

(6) The District's failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of contractor's obligations to obtain the required insurance.

INDEMNIFICATION - THIRD PARTY CLAIMS

Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the District, its instrumentalities, agencies, departments, boards, and all their respective officers, agents and employees against all

suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. The District shall allow the Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. The District shall allow the Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon the District. The District shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. The District shall reasonably cooperate with the Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.

ASSIGNMENT

No solicitation response, contract or any of its provisions may be assigned, sublet, or transferred without the prior written consent of the District.

PAYMENT

The District shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, including the purchase order, payment shall not be made on partial deliveries accepted by the District.

INTELLECTUAL PROPERTY INFRINGEMENT

(a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the District, its instrumentalities, agencies, departments, boards, and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. The District shall allow the Contractor to defend such claim so long as the defense is diligently and capably prosecuted. The District shall allow the Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon the District. The District shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against the District's use of any acquired item, or if in the Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, the Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for the District the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by the District. If neither (1) nor (2), above, is practical, the District may require that the Contractor remove the acquired item from the District, refund to the District any charge(s) paid by the District, and take all steps necessary to have the District released from any further liability. (c) the Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by the Contractor's compliance with specifications furnished by the District unless the Contractor knew or reasonably had prior knowledge or suspected its compliance with the District's specifications would infringe an IP right, or (ii) that the claim is caused by the Contractor's compliance with specifications furnished by the District if the District knowingly relied on a third party's IP right to develop the specifications provided to the Contractor and failed to identify such product to the Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

OWNERSHIP OF DATA & MATERIALS

All data, information, material and documentation either specially prepared by Contractor for the District or provided by the District pursuant to this solicitation shall belong exclusively to the District.

PRIVACY - WEB SERVICES

The offeror agrees that any information acquired by about individuals or businesses which are available to the offeror as a result of the performance of this solicitation award/contract shall not be retained beyond the end of the term of the contracted project without the express written consent of the District. Such information shall not be sold, traded, or released in any form to another entity, including affiliates, and shall not be used for any purpose other than performing this contract. Upon request, the contractor shall provide written confirmation of compliance with this clause.

PROPRIETARY SOFTWARE (WHEN APPLICABLE)

Definition

Proprietary software is defined as data programs, non-custom written, non-made for hire software supplied by the contractor on a magnetic tape, disk, semiconductor device or other memory device; or system memory including hard wired logic instructions, microcode and documentation used to describe, maintain and use the programs.

License

The District is hereby granted a non-exclusive, fully paid perpetual license to use the contractor's proprietary software associated with the materials and/or hardware acquired, but only in conjunction with the material, equipment and/or service purchased pursuant to this Agreement.

Title

Title to any proprietary software, provided by the contractor to the District will remain with the contractor.

Trade Secrets

The District agrees that proprietary software is a trade secret of the contractor. The District agrees to take reasonable precautions to protect the trade secret nature of the proprietary software and to prevent its disclosure to unauthorized personnel. The license herein granted cannot be transferred, assigned, or made available by the District for use by any other individual, firm, partnership, or legal entity not affiliated, associated, or connected with the District without the prior expressed written consent of the contractor, which consent will not be unreasonably withheld. Such transfer shall also be conditioned upon the execution by the transferee of a written declaration agreeing to be bound by the terms and conditions of confidentiality provided for in this section.

Source Code

In the event the contractor, at any point during the continued installation and operation of the equipment herein acquired, discontinues the conduct of business, or for any reason falls to continue to support the proprietary software; the District will be provided a copy of the source code for said proprietary software, at no expense to the District.

Escrow for Source Code: In the event the contractor at any point during the continued installation and operation of the software herein acquired discontinues the conduct of business or for any other reason fails to continue to support the software, the District shall be provided a copy of the source code for said software within thirty days at no expense to the District.

For the effective term of this contract, contractor will provide, to a mutually agreed upon escrow agent in the United States, the most recent version of the source code on magnetic media. The proprietary source code shall be deposited into the escrow account within fifteen (15) calendar days of the initiation of the contract, or any major update, non-customized enhancement, version or release of said licensed software.

The source code may be accessed only upon the following conditions:

- a. The contractor refuses to provide software maintenance, bug fixes, upgrades, updates and/or enhancement services under the terms set forth in this contract or as generally provided similarly situated customers; or
- b. The contractor ceases to do business or exist as a valid business entity, as evidenced by an adjudication of bankruptcy or other definitive measure of cessation of operations.

With regards to proprietary software, the District may not sell, assign lease, or otherwise provide said source code(s) to any other person, firm or entity, regardless of modification, without the express written consent of the contractor, its successors, and assigns.

CUSTOMIZED SOFTWARE

Definition

Customized software is defined as made-for-hire, custom written and customer specific computer programs developed for the District by the contractor or by employees or agents of the District on magnetic tape, disk, semiconductor device or their memory device or system memory including hard wired logic instructions, microcode; and documentation used to describe, maintain and use the programs and any and all of the foregoing created in conjunction with this contract.

Title

Title to the customized software rests in the District as set forth herein. The contractor shall thereafter have no right, title or interest in any customized software. As herein used, title includes providing to the District all intellectual elements of the customized software including, but not limited to, developmental, work product, notes, object and source codes and any other items or material regardless of form which would aid the District in understanding, using, maintaining, and enhancing the pertinent customized software.

Software Tools

The contractor shall provide to the District, simultaneous with its initial installation and any subsequent enhancements, upgrades, modifications, "patches", fixes, etc., software tools (including, but not limited to compilers, editors, etc.) that the District may require to maintain or to enhance the customized software. The price for said tools and the cost to train District personnel to maintain and/or to enhance the customized software shall be noted separately and included in the contractor's cost bid/proposal submitted to the District in response to the solicitation.

Technology Requirement (When Applicable)

The following requirement has been prepared by the District's Education Technology Services (ETS) department for compliance, where applicable:

"For all COTS (commercial off the shelf applications), the Offeror shall submit security audit documentation which meets State and Federal law along with applicable regulatory standards including, but not limited to: the South Carolina Public Records Act, Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), Pupil Privacy Rights Act (PPRA), Individuals with Disabilities Education Act (IDEA), Gramm-Leach Bliley Act (GLBA), and Payment Card Industry Data Security Standard (PCI-DSS). Applications must also meet or exceed verifiable Spartanburg School District Seven security review and security application testing specifications, including, but not limited to: Open Web Application Security Project (OWASP), The Web Application Security Consortium (WASC) , and United States Computer Emergency Readiness Team (US-CERT) National Vulnerability Database (NVD) as part of the Request for Proposal or Invitation for Bid submission.'

ETHICS ACT

By submitting an offer, the vendor certifies that it is in compliance with South Carolina's Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of a public employee — Section 8-13790, (b) Recovery of kickbacks — Section 8-13-790, (c) Offering, soliciting, or receiving money for advice or assistance of a public official — Section 8-13-720, (d) Use or disclosure of confidential information — Section 8-

13725, and (e) Persons hired to assist in the preparation of specifications or evaluation of bids/proposals — Section 813-1150.

Any questions regarding the aforementioned General Terms and Conditions shall be directed to Spartanburg School District Seven's Procurement Department, 610 Dupre Drive, Spartanburg, SC 29307 (864) 594-6179.