

**MASTER CONTRACT AGREEMENT
BY AND BETWEEN**

**KNOX COUNTY SCHOOLS
AND
MAYFIELD DAIRY FARMS, LLC**

For Milk and Other Beverages (plastic half pints)(School Districts)

This Contract, made and entered into this 20th day of August, 2008 by and between **Knox County** through its governing body and authorized representative, hereinafter referred to as "**County**" and Mayfield Dairy Farms, LLC, hereinafter referred to as "**Contractor**."

Whereas, County requested proposals for milk and other beverages for but not limited to the Knox County Schools, Sacred Heart Cathedral School, and Anderson County Schools, (Request For Proposal 757) and;

Whereas, Contractor submitted a proposal in accordance with said requested specifications, the response of which is the most responsible and responsive proposal meeting specifications accepted by County;

Whereas, Contractor agrees and undertakes to provide to the school districts milk and other beverages as set forth in the Request For Proposal, and at the price quoted for said products by Contractor. Further, in accordance with the lawful directions of the County, the Contractor agrees in all respects, to be governed by the Request For Proposal specifications and the Contractor's proposal and response.

Now, therefore in consideration of mutual covenants and promises contained herein, the parties hereto wish to enter into this contract to set forth their respective rights and obligations and do mutually agree that:

Witnesseth:

- 1. Terms of this Contract.** This Contract commences on 1st day of August 2008 and ends the 31st day of July 2009, unless terminated in conformity with the terms of this Contract as contained in paragraphs 4 and 5. There are two one-year option renewal periods. Renewal will be at the sole discretion of County.
- 2. Payment.** County shall pay Contractor the amount as agreed upon in County's Request For Proposal 757, pursuant to all payments being subject to the County's review and approval.
- 3. Invoicing and reporting requirements.** Contractor shall invoice the various school districts for the weekly purchases of milk and other beverages.
- 4. Termination.** County may terminate this Contract with or without cause, upon written notice of not less than sixty days. Upon termination, County will pay for services satisfactorily completed but not yet invoiced. Contractor shall not perform additional work without the expressed permission of County.

Should the Contractor fail to provide milk and other beverages detailed herein, County will communicate the problem(s) to the Contractor verbally and keep a written record as to what the problem(s) are and when the contractor was contacted. The Contractor shall have 24 hours to rectify the problems. If the same or other problems persist or reoccur, the County may terminate the Contract.

In the event contractor intends to interrupt or discontinue service under this contract, contractor agrees to give Knox County and various school districts 120 day advance written notice of said interruption or discontinuance of service prior to interrupting or discontinuing same. Any interruption or discontinuance of service without said advance notice shall constitute a material breach of this contract.

5. Appropriations. In the event no funds are appropriated by County and various school districts for the milk and other beverages in any fiscal year or insufficient funds exist to provide the services, then the Contract shall expire upon the expenditure of previously appropriated funds or the end of the current fiscal year, whichever occurs first, with no obligations owed to or by either party.

6. Independent contractor. The parties hereto acknowledge that they are independent contracting entities and that nothing in this Contract shall be construed to create a principle/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatever, and County shall not be in any manner responsible for any payment, insurance or incurred liability.

7. Compliance with all federal, state, and municipal laws. Contractor is assumed to be familiar with and agrees to observe and comply with all federal, state, and local laws, statutes, ordinances, and regulations in any manner affecting the provision of milk and other beverages, and all instructions and prohibitive orders issued regarding this work and shall obtain all necessary permits.

8. Severability clause. If any provision of this Contract is declared illegal, void, or unenforceable the remaining provisions shall not be affected but shall remain in force and in effect.

9. Prohibition against assignment. Contractor shall not assign this Contract to any party, company, partnership, incorporation, or person without prior specific written consent of County.

10. This Contract shall be governed by the laws of the State of Tennessee both as to interpretation and performance.

11. Right to inspect. County reserves the right to make periodic inspections of the manner and means the services are performed.

12. Nondiscrimination and non-conflict statements. Contractor agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract, or in the employment practices of Contractor. Contractor shall upon request show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

13. Books and records. Contractor shall maintain all books, documents, accounting records and other evidence pertaining to the service under this contract and make such materials available at their offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the Contract for inspection by County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested. Such records shall not include those books, documents and accounting records that represent the Contractor's costs of manufacturing, acquiring or delivering the products and services governed by this Contract.

14. Contractor shall indemnify, defend, save and hold harmless, County, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the Contract by Contractor, its subcontractors, agents or employees or

due to any negligent act, occurrence, omission, commission of Contractor, its subcontractors, agent, or employees.

15. **Delivery.** Contractor shall render the ice cream products for but not limited to the following: the various school districts in accordance with the Contractor's schedule and coordinated with the Food Service Administrator or their designee of the various school districts.

16. **Additional agencies.** Contractor agrees to delivery to any additional school districts which may desire to become a part of this Master Agreement, during the term of this Master Agreement.

17. **Contract documents.** It is mutually agreed by both parties that the following documents are made part of this Contract:

- a. Request For Proposal 757
- b. Contractor's response to Request For Proposal 757

It is agreed that this Contract, represents the entire Contract between the parties and no prior representations, promises, and agreements, oral or otherwise, not embodied herein, shall be of any force or effect.

18. **Limitation of liability.** In no event shall Knox County Schools of the other various school districts be liable for any indirect, incidental, nonsequential, special or exemplary damages or lost profits, even if Knox County has been advised of the possibility of such damages.

In witness whereof, the parties hereto have caused this Contract to be executed in one original copy on the day and year first above written.

Knox County Government

by: Michael R. Ragdale
Michael R. Ragdale
Knox County Mayor

Date

8.4.08

Knox County Schools

By: James P. Smith
Title: Superintendent KCS
Date: 8/18/08

Mayfield Dairy Farms, LLC

By: Don Perkins
Title: Sales Rep
Date: 8-20-08

Contract # 08-337
Approved as to Legal Form:

Martha Haren McCampbell
Knox County Law Director's Office

7.28.2008 Date

Approved by
Knox County Board of Education

7/21/08
[Signature]