



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 15 - Food

Proc Folder: 193960

Doc Description: MULTIPLE AWARD OPEN END CONTRACT FOR FRESH PRODUCE

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2016-09-02	2016-10-06 13:30:00	CRFQ 0506 BHS170000001	1

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

CROOK BROTHERS
 250 GREY FLATS ROAD
 BECKLEY, WV 25801 (304) 252-7711

10/06/16 11:48:55
 Purchasing Division

FOR INFORMATION CONTACT THE BUYER

April Battle
 (304) 558-0067
 april.e.battle@wv.gov

Signature X *Kent Crook* FEIN # 550693814 DATE 10/06/16

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION:

The West Virginia Purchasing Division is soliciting bids on behalf of the WV Department of Health and Human Resources and the Bureau for Behavioral Health and Health Facilities to establish an open-end contract to provide fresh product to seven (7) State owned and operated facilities listed below:

William R. Sharpe, Jr. Hospital
936 Sharpe Hospital Road
Weston WV 26452

Welch Community Hospital
454 McDowell Street
Welch WV 24801

Mildred Mitchell Bateman Hospital
1530 Norway Ave
Huntington WV 25709

Jackie Withrow Hospital
105 S Eisenhower Drive
Beckley WV 25801

Lakin Hospital
11522 Ohio River Rd
West Columbia WV 25287

Hopemont Hospital
150 Hopemont Drive
Terra Alta WV 26764

John Manchin Sr. Health Care
401 Guffey Street
Fairmont WV 26554

INVOICE TO		SHIP TO	
PURCHASING AGENT - 304-356-4802 HEALTH AND HUMAN RESOURCES BBH/HF 350 CAPITOL ST, RM 350 CHARLESTON WV25301-3702 US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	OPEN END CONTRACT FRESH FRUITS AND VEGETABLES	1.00000	YR		

Comm Code	Manufacturer	Specification	Model #
73131700			

Extended Description :

MULTIPLE AWARD OPEN END CONTRACT TO PROVIDE FRESH PRODUCE TO THE SEVEN (7) STATE OWNED AND OPERATED FACILITIES AS PER THE ATTACHED SPECIFICATIONS.

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Questions Due	2016-09-20

BHS1700000001	Document Phase Draft	Document Description MULTIPLE AWARD OPEN END CONTRACT FOR FRESH PRODUCE	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening

A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: **September 20, 2016, at 3:00 PM EST**

Submit Questions to: **April Battle, Buyer 22**
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
Email: april.e.battle@wv.gov

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile.

The bid delivery address is:
Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

SEALED BID: Fresh Produce
BUYER: April Battle, Buyer 22
SOLICITATION NO.: CRFQ 0506 BHS1700000001
BID OPENING DATE: October 6, 2016
BID OPENING TIME: 1:30 PM EST
FAX NUMBER: (304) 558-3970

The Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. Submission of a response to an Expression or Interest or Request for Proposal is not permitted in wvOASIS.

For Request For Proposal ("RFP") Responses Only: In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus _____ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)

- Technical
 Cost

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: October 6, 2016, at 1:30 PM EST

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATES: Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately opened and/or viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform, or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor’s entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled “confidential,” “proprietary,” “trade secret,” “private,” or labeled with any other claim against public disclosure of the documents, to include any “trade secrets” as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

GENERAL TERMS AND CONDITIONS:

- 1. CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
- 2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
 - 2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
 - 2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.
 - 2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
 - 2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
 - 2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
 - 2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.
 - 2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
 - 2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: This Contract becomes effective on award and extends for a period of one (1) year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 36 months in total. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days.

Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional _____ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of this Contract is prohibited.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

BID BOND (Construction Only): Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of _____. The performance bond must be received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

LABOR/MATERIAL PAYMENT BOND: The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

MAINTENANCE BOND: The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

INSURANCE: The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the state as a certificate holder:

Commercial General Liability Insurance: In the amount of \$1,000,000.00
_____ or more.

Builders Risk Insurance: In an amount equal to 100% of the amount of the Contract.

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

8. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

9. LITIGATION BOND: The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

10. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount of

N/A

for N/A

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

11. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

12. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

13. PAYMENT: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

14. PURCHASING CARD ACCEPTANCE: The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

15. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

16. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

17. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

18. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-6.1.e.

19. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

20. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

21. COMPLIANCE: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

22. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

23. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

24. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

25. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

26. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

27. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

28. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

29. BANKRUPTCY: In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

39. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

40. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0506 BHS1700000001

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.


Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

- | | |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

CROOK BROTHERS
Company


Authorized Signature

10/06/16
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

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FRESH PRODUCE**

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV Department of Health & Human Resources and the Bureau for Behavioral Health and Health Facilities to establish an open-end contract to provide Fresh Produce to seven (7) State owned and operated facilities listed below. The contract awarded as a result of this solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment I: Provisions Required for Federally Funded Procurements.

Location of Facilities:

William R. Sharpe, Jr. Hospital
936 Sharpe Hospital Road
Weston, WV 26452

Welch Community Hospital
454 McDowell Street
Welch, WV 24801

Mildred Mitchell Bateman Hospital
1530 Norway Ave.
Huntington, WV 25709

Hopemont Hospital
150 Hopemont Drive
Terra Alta, WV 26764

Jackie Withrow Hospital
105 S. Eisenhower Drive
Beckley, WV 25801

John Manchin Sr. Health Care
401 Guffey Street
Fairmont, WV 26554

Lakin Hospital
11522 Ohio River Rd.
West Columbia, WV 25287

NOTE: The contract awarded as a result of this solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment 1: Provisions Required for Federally Funded Procurements.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
- 2.1 “Contract Item” or “Contract Items”** means the list of items identified in Section 3.1 below and on the Pricing Pages.

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- 2.2 “Pricing Pages”** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.
- 2.3 “Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

3. GENERAL REQUIREMENTS:

- 3.1 Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

3.1.1 FRESH FRUITS & VEGETABLES

3.1.1.1 Vendor shall provide all Fresh Produce and Vegetables that bear the United States Department of Agriculture (USDA) grade shields, official seals and/or labels ensuring the highest quality of agricultural products. (www.ams.usda.gov)

3.1.1.2 Vendor shall provide the following products covered by these specifications which shall include the following:

1. Fruits
 - a. Apples
 - b. Bananas
 - c. Cantaloupes
 - d. Grapefruit
 - e. Grapes
 - f. Honeydew
 - g. Kiwi
 - h. Lemons
 - i. Oranges
 - j. Nectarines
 - k. Peaches
 - l. Pears
 - m. Pineapple
 - n. Strawberries
 - o. Tangerines
 - p. Raspberries

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- q. Blackberries
- r. Clementines
- s. Other seasonal or special fruit

2. Vegetables

- a. Broccoli
- b. Cabbage
- c. Carrot
- d. Cauliflower
- e. Celery Stalks
- f. Cucumbers
- g. Endive, Kale, Flowering Kale, Collard Greens
- h. Lettuce
- i. Mushrooms
- j. Onions
- k. Parsley
- l. Peppers
- m. Potatoes
- n. Radishes
- o. Squash, acorn, butternut, yellow, zucchini
- p. Tomatoes
- q. Other seasonal or special vegetables

3. Miscellaneous Processed Items:

- a. Cabbage, Shredded
- b. Slaw mix (Shredded cabbage & carrots)
- c. Carrots, Shredded
- d. Celery Sticks
- e. Lettuce Salad
- f. Tossed Salad

3.1.1.4 Vendor shall provide items that are as fresh as possible with minimal processing.

3.1.1.5 Vendor shall guarantee the freshness and quality of the produce delivered. Product deemed to be unacceptable by a state-owned facility shall be rejected. Rejected products shall be replaced by the vendor within forty-eight (48) hours with no additional delivery charge. Repeated occurrences of rejected products may be basis for cancellation of the contract.

3.1.1.6 Vendor shall guarantee that, as of the date of delivery to the state facility, the product(s) offered is (are) not

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adulterated or misbranded with the meaning of the Federal Food, Drug and Cosmetic Act (the Act), and not an article which may not, under provisions of Part 404, 505, 512 of the Act, be introduced into interstate commerce.

- 3.1.1.7 Vendor shall provide items which are not of domestic source that will be labeled as to country of origin. If items are not individually labeled regarding country of origin, the package in which they are provided to the state facility shall be clearly marked with a label or stamp providing county of origin information.
- 3.1.1.8 Vendor shall provide processed vegetables that have not been treated with any preservatives or chemicals during the preparation and packaging process.
- 3.1.1.9 Vendor shall ship items in the original cartons in sizes standard to the industry or repacked in less than case quantities, if needed.
- 3.1.1.10 Vendor shall provide processed items that will be gas flushed and packed in approved barrier bags and packed without chemical preservatives.
- 3.1.1.11 Vendor shall have an effective quality assurance program with procedures to monitor, on a continuous basis, the quality of produce being provided, which shall include a method of monitoring, identifying, and correcting deficiencies in the quality of products furnished to the state facilities.
- 3.1.1.12 Vendor shall be utilizing effective pest control and sanitation procedures in both storage facilities and delivery equipment.
- 3.1.1.13 Vendor shall possess a Perishable Agricultural Commodities (PACA) license.

4. CONTRACT AWARD:

- 4.1 **Contract Award:** The Contract is intended to provide Agencies with a purchase price on all Contract Items. The Contract shall be awarded to all vendors meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages. The lowest bidder will be the first ranked vendor. The facility would contact the lowest bidder to see if that vendor can provide the requested contract items meeting the required specifications and availability. If the lowest bidder cannot provide the requested items, the vendor should contact the facility within 24 hours of their inability to fill the

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order. The facility would then contact the next vendor and so on and so forth until the need is met.

- 4.2 Pricing Pages:** Vendor should complete the Pricing Pages by inserting the set percentage (%) mark-up on Bid Sheet #1. All percentages should be the same for all commodities listed. Vendor will fill in Vendors Cost per unit and supply Agency with documentation to support the cost per unit on the selected items listed. Pricing must be the same for the selected (#) items on Bid Sheet #2 as well as Bid Sheet #1. Vendor should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bids being disqualified.

The Pricing Pages contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied. Actual usage may be more or less.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document.

5. ORDERING AND PAYMENT:

- 5.1 Ordering:** Release orders will be done on low price and availability. The Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

Vendor shall develop a mutually acceptable system for issuing a **Weekly Price List** to state facilities and receiving orders, e.g. contractor will broadcast fax a **Weekly Price List** on a selected day of the week to institutions for the following week's delivery, with the state facility completing the order sheet and faxing same to contractor within two (2) business days, or similar system. The weekly price/order sheet distributed to the state facilities by the contractor shall also be provided to the WV DHHR Purchasing Division.

The fill rate is expected to be at least 98% for produce. If an item ordered by a state facility is unavailable, is unavailable in stage of ripeness specified, or is unavailable in size/count ordered, the contractor shall contact the state facility prior to delivery.

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The contractor shall find out if the state facility would like to revise the size/count/stage of ripeness for the item in question, to delete the item from the order, or to order another item instead. The ordering system developed above, shall allow time for such issues to be addressed. No unauthorized substitutions shall be made by the vendor.

5.2 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

6.1 Delivery Time: Vendor shall, upon receipt of contract, contact the seven (7) state facilities to establish a mutually agreeable weekly delivery schedule. The delivery schedule should indicate a delivery time, plus or minus one hour. Vendor shall also establish delivery times to fill emergency orders with the seven (7) state facilities. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.

All products purchased on any contract awarded pursuant to this bid shall be shipped directly from the contractor's produce distribution center with refrigerated warehouse appropriate to the variety of fruits and vegetables stored within.

Refrigerated items shall be transported in a vehicle pre-cooled to a minimum of 35 degrees Fahrenheit and a maximum temperature of 45 degrees Fahrenheit. Vehicle shall be capable of maintain temperature with specified range to destination(s).

Deliveries will not be accepted on Saturday, Sunday, or on state-observed holidays, unless otherwise agreed to by the state facility. Contractor and state facilities shall make mutually agreeable arrangements for delivery to be made the business day before or after said holiday. State observed holidays are:

<i>New Year's Day</i>	<i>1st Day of January</i>
<i>Martin Luther King's Birthday</i>	<i>3rd Monday of January</i>
<i>Lincoln's Birthday</i>	<i>12th Day of February</i>
<i>President's Day</i>	<i>3rd Monday of February</i>
<i>Memorial Day</i>	<i>Last Monday in May</i>
<i>West Virginia Day</i>	<i>20th Day of June</i>
<i>Independence Day</i>	<i>4th Day of July</i>
<i>Labor Day</i>	<i>1st Monday of September</i>
<i>Columbus Day</i>	<i>2nd Monday of October</i>
<i>Veterans Day</i>	<i>11th Day of November</i>
<i>Thanksgiving Day</i>	<i>4th Thursday of November</i>
<i>Christmas Day</i>	<i>25th Day of December</i>

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Vendor shall make inside dock delivery, state facility personnel and/or their designees shall not participate in unloading contractor's truck.

- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

Vendor will notify the facility if the vendor's delivery truck is unable to complete the delivery within a reasonable timeframe (approximately one hour) due to problems (weather, equipment). Vendor shall contact the institution by telephone later the same day to verify whether acceptance of delivery is possible that day. If the facility is unable to receive delivery later that day, the vendor and facility shall agree upon a new delivery date.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

- 6.3 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.
- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

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6.5 Return Due to Agency Error: Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7. VENDOR DEFAULT:

7.1 The following shall be considered a vendor default under this Contract.

7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

7.1.2 Failure to comply with other specifications and requirements contained herein.

7.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

7.1.4 Failure to remedy deficient performance upon request.

7.2 The following remedies shall be available to Agency upon default.

7.2.1 Immediate cancellation of the Contract.

7.2.2 Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

8. MISCELLANEOUS:

8.1 No Substitutions: Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

8.2 Vendor Supply: Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.

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- 8.3 Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 8.4 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Kenneth Crook
Telephone Number: (304) 252-7711
Fax Number: (304) 252-3020
Email Address: Kenneth@CrookBros.com

Bidder shall provide the Mark-up percentage (%) for the various classifications of fresh fruits and vegetables.

REGION(S) _____ *(Indicate the Regions being bid, See Part VII of the specification.)*

Classification of Fresh Produce	Mark-up Percentage
1. Fruits.....	35 %
2. Vegetables	35 %
3. Miscellaneous Processed Items.....	35 %

		Description / Package	Vendor's Cost per Unit (*Bid Sheet #3)	Mark Up (%)	State Purchase Price (per unit)	x Estimated Annual Qty	= Annual Total
		REGION(S)	(Indicate the Regions being bid, See Part VII of the specification.)				
1	40	APPLES, red, delicious, min US Fancy Gr, 100 count.					
2	11	Asparagus, Green	18.00	35 %	24.30	400 CASE/ 16,000 lb	9,720.00
3*	40	Bananas, yellow variety, maturity level to ensure ripening, min 1-1/8 in. dia, min 5.5 in. lg, 5.	21.60	35 %	29.16	200 CASE/ 2,200 lb	5,832.00
4*	18	Grapes, red, seedless, US No. 1 Table Gr,	8.00	35 %	10.80	800 CASE/ 32,000 lb	8,640.00
5	38	Cantaloupe, U.S. No. 1 gr, 15 to 23 count.	23.00	35 %	31.05	900 CASE/ 16,200 lb	27,945.00
6	25	Melon, Honeydew, US No. 1	10.50	35 %	14.18	400 CASE/ 15,200 lb	5,672.00
7	40	Oranges, US No. 1, Valencia and Navel	9.00	35 %	12.15	150 CASE/ 3,750 lb	1,822.50
8	9	Strawberries, US No 1, 6 pints per flat	20.95	35 %	28.28	400 CASE/ 16,000 lb	11,312.00
9	50	WATERMELON, FRESH, seedless, US No. 1 Grade, water variable weight, 4 or 5 per case.	13.40	35 %	18.09	100 FLATS	1,809.00
		Vegetables					
10	20	Broccoli, US No. 1	22.00	35 %	29.70	250 CASE/ 12,500 Lb	7,425.00
11	50	Cabbage, Green, U.S. No 1,	13.75	35 %	18.56	100 CASE/ 2,000 lb	1,856.00
12	50	Carrot, topped, US No. 1,	7.50	35 %	10.13	200 CASE/ 10,000 lb	2,026.00
13	50	CELERY, FRESH, Pascal, US No. 1, Gr, 2 to 3 dozen, bulk pack	16.50	35 %	22.28	250 CASE/ 12,500 lb	5,570.00
14	50	Cucumbers, 85% U.S. No. 1	16.50	35 %	22.28	200 CASE/ 10,000 lb	4,456.00
			9.00	35 %	12.15	300 CASE/ 15,000 lb	3,645.00

Vendor's Costs for the week of July 15, 2016 through July 22, 2016 shall be used for all items.

15*	LETTUCE, FRESH, Iceberg, us no. 1 gr, 2 dz size, ind pg.	30	Lettuce Iceberg 2 1/2 ct. #1	11.00	35 %	14.05	300 CASE/ 9,000 lb	4,455.00	
16	ROMAINE, FRESH, issued by lb	36	Romaine 2 1/2 ct. Fresh	17.50	35 %	23.63	100 CASE/ 3,600 lb	2,363.00	
17	Onions, Yellow	50	Onions Yellow 50#	14.50	35 %	19.58	150 CASE/ 7,500 lb	2,937.00	
18	Potatoes, Baking, Idaho, U.S. No.1,	50	Potatoes Idaho us #1	5.00	35 %	6.75	400 BAG/ 20,000 lb	2,700.00	
19*	Potatoes, White, moderately skinned, long, for baking, us extra no. 1 or us no. 1 gr, 8 to 12 oz ea,	50	Potatoes White us #1 50#	5.00	35 %	6.75	200 BAG/ 10,000 lb	1,350.00	
20*	Tomatoes, 85% U.S. No. 1, light red to red, 2-1/2 in. min dia.	25	Tomatoes us #1 25#	14.40	35 %	19.44	400 CASE/ 1,000 lb	7,776.00	
21	Turnip, U.S. No. 1, 25 lb/ bag	25	Turnip us #1 25#	12.00	35 %	16.20	160 BAG/ 4,000 lb	2,592.00	
Miscellaneous Processed Items									
22*	Celery, Sticks, US No. 1 Gr, Chilled. 5 lb	5	Celery Stix #1 5 lb	4.55	35 %	6.14	200 CASE/ 1,000 lb	1,228.00	
23	Lettuce, Shredded, Chilled, 4 ea/5 lb bags	20	Lettuce Shredded 4/5 lb	12.20	35 %	16.47	100 CASE/ 2,000 lb	1,647.00	
24	Tomatoes, Sliced, 1/2", 4 ea/5 lb bags	20	Tomatoes Sliced 20#	36.00	35 %	48.60	100 CASE/ 2,000 lb	4,860.00	
Vendor's Costs for the week of July 15, 2016 through July 22, 2016 shall be used for all items.								Total Cost	129,638.00

Restocking Fee for Item order in error by state agency: 0 Restocking Fee.

Charge for Second Weekly Delivery..... REGION I _____ REGION III 75.00
 REGION II _____ REGION IV _____

\$ 129,638.00

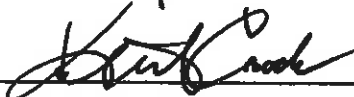
CONTRACT AWARD: This will be a multiple award contract. The Vendor with the lowest grand total will be awarded the contract "A" and the next lowest vendor "B", and so on. All vendors meeting the bid specifications will be awarded a contract.

Documentation of Vendor's Cost (legible copies of supplies and bills of lading) shall be submitted for the following items to demonstrate the vendor's cost per unit. For purpose of evaluation, Vendor's Costs for the week of July 15, 2016 through July 22, 2016 shall be used.

	Fresh Produce U.S. No. 1	<u>Supplier company name, bidder company name, invoice date, item description, quantity and price.</u>	Vendor's Cost per Unit
3*	Bananas, yellow variety, maturity level to ensure ripening, min 1-1/8 in. dia, min 5.5 in. lg, 5.	GRANT COUNTY FOODS, CROOK BROTHERS 7/19 BANANAS 40 th US #1 QTY 32	8.00
4*	Grapes, red, seedless, US No. 1 Table Gr.	DELMONTE, CROOK BROTHERS 7/19 GRAPES RED US #1 QTY 80	23.00
11*	Cabbage, U.S. No. 1, 200 cs./1000 lbs.	HORTON'S, CROOK BROTHERS 7/18 CABBAGE US #1 50 th QTY 70	7.50
15*	LETTUCE, FRESH, Iceberg, us no. 1 gr, 2 dz size, ind pg.	C.H. ROBINSON, CROOK BROTHERS, 7/21 LETTUCE 24.1. QTY 120	11.00
19*	Potatoes, White, moderately skinned, long, for baking, us extra no. 1 or us no. 1 gr, 8 to 12 oz ea.	MRS DENNIS, CROOK BROTHERS 7/18 Potato QTY 200	5.00
20*	Tomatoes, 85% U.S. No. 1, light red to red, 2-1/2 in. min dia.	GRANT COUNTY FOODS, CROOK BROTHERS 7/19 Tomatoes US #1 25 ^{lb} QTY 40	14.40
22*	Celery, Sticks, US No. 1 Gr, Chilled. 5 lb	TAYLOR FARMS, CROOK BROTHERS 7/21 Celery Sticks 5 ^{lb} QTY 10	4.55

Vendor's Costs for the week of July 15, 2016 through July 22, 2016 shall be used.

CONTRACTOR'S NAME & REMIT TO ADDRESS:	CONTRACTOR'S CONTACT: Kenneth Crook
CROOK BROTHERS 250 GREY FLATS ROAD Becky, WV 25801	Telephone: (304) 252-7711 FAX: (304) 252-3020 Email: Kenneth@crookbroas.com


10/06/16
 SIGNATURE: DATE:

Provisions Required for Federally Funded Procurements

- 1. Federal Funds:** This purchase is being funded in whole or in part with Federal Funds and is subject to the requirements established in 2 CFR § 200. Pursuant to 2 CFR § 200.317 the provisions of 2 CFR §§ 200.322 and 200.326 are expressly included in this solicitation below and incorporated into any contract resulting from this solicitation by reference.
- 2. 2 CFR §200.322 Procurement of recovered materials:** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 3. §200.326 Contract provisions:** Pursuant to the requirements contained in 2 CFR §§ 200.317 and 200.326, the following provisions are included any contract resulting from this solicitation, to the extent that the provisions are applicable.
 - (A)** At a minimum, the administrative, contractual, or legal remedies contained in W. Va. CSR § 148-1-5 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract resulting from this solicitation in instances where contractors violate or breach contract terms for contracts for more than the simplified acquisition threshold currently set at \$150,000 (which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908).

West Virginia Code of State Rules § 148-1-5 states:

§ 148-1-5. Remedies.

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.d. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.d.1. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.d.2. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.a. The Director may suspend, for a period not to exceed one (1) year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.a.1. The vendor has exhibited a pattern of submitting bids and then requesting that its bid be withdrawn after bids have been publicly opened. For purposes of this provision, a pattern is two or more instances in any 12 month period.

5.4.a.2. The vendor has exhibited a pattern of poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to, two or more instances of any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; and failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.a.3. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.a.4. The vendor's actions have given rise to one or more of the grounds for debarment listed in section 5A-3-33d.

5.4.b. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.b.1. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.b.2. A notice of suspension must inform the vendor:

5.4.b.2.A. Of the grounds for the suspension;

5.4.b.2.B. Of the duration of the suspension;

5.4.b.2.C. Of the right to request a hearing contesting the suspension;

5.4.b.2.D. That a request for a hearing must be served on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension;

5.4.b.2.E. That the vendor's failure to request a hearing no later than five (5) working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.b.2.F. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.b.3. A vendor's failure to serve a request for hearing on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.
5.4.b.4. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.b.5. Within five (5) working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.b.6. The hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.c. A vendor may appeal a decision of the Director to the Secretary of Administration. The appeal must be in writing and served on the Secretary no later than five (5) working days of receipt of the Director's decision.

5.4.d. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.e. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in West Virginia Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.a. Debarment proceedings shall be conducted in accordance with West Virginia Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.b. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.c. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor,

including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated. 5.5.d. Pursuant to West Virginia Code section 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.e. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.6. Damages.

5.6.a. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.b. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.c. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

(B) At a minimum, the termination for cause and for convenience provisions contained in W. Va. CSR § 148-1-5.2 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract in excess of \$10,000 resulting from this solicitation.

West Virginia Code of State Rules § 148-1-5.2 states:

5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “**federally assisted construction contract**” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

41 CFR § 60-1.3 defines “Federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Accordingly, to the extent that this contract meets the definition of a "federally assisted construction contract" under 41 CFR Part 60-1.3, the following clause is included:

41 CFR 60-1.4 - Equal opportunity clause. (b) *Federally assisted construction contracts.*

In accordance with the requirements of described above, and except as otherwise provided in the applicable regulations, the following language is hereby incorporated into any contract resulting from this solicitation involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may

request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(D) Davis-Bacon Act, as amended (40 U.S.C.3141–3148). Any construction contract resulting from this solicitation hereby requires compliance with the Davis-Bacon Act (40 U.S.C.3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor

Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.

Any construction contract resulting from this solicitation hereby requires compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, any contract resulting from this solicitation in excess of \$100,000 that involve the employment of mechanics or laborers hereby requires compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- (G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—** Any contract resulting from this solicitation in excess of \$150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C.1251–1387).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—** Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.”
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—** Any contract resulting from this solicitation requires compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Mrs. Dennis' Potato Farm, 2016

15370 Co. Rd. K
Wauseon, OH 43587

Voice: 419-335-2778
Fax: 419-335-2793

Marty

PO# 48324

INVOICE

Invoice Number: 38265
Invoice Date: Jul 14, 2016
Page: 1
Duplicate

Bill To:
Crook Brothers
250 Grey Flats Road
Beckley, WV 25801

Ship To:
Crook Brother
250 Grey Flats Road
Beckley, WV 25801

Customer ID		Customer P/U		Payment Terms	
CRO				Net 30 Days	
Sales Rep		Shipping Method		Ship Date	
PRODUCE OF		Customer P/U		7/14/16	8/13/16
Quantity		Description		Unit Price	Amount
200.00	50#	UNCLASSIFIED WHITE, 40 x 5		3.75	750.00
50.00	50#	RUSSET, 10 OUNCE MIN, MESH, 40 + 10		7.00	350.00
40.00	50#	RED A, 40		8.50	340.00

Subtotal	1,440.00
Sales Tax	
Total Invoice	1,440.00
Payment/Credit	
TOTAL	1,440.00

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7U.S.C.499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

Invoice Number: 256292288

Invoice Date: July 22, 2016



C.H. Robinson Worldwide, Inc. and Subsidiaries

Remit To: P.O. Box 9121 Minneapolis, MN 55480-9121

Bill-to: C7420463 ATTN: ACCOUNTS PAYABLE CROOK BROTHERS - MASTER INBOUND 250 GREY FLATS RD BECKLEY, WV 25801-5873

Handwritten notes: P. 4, YRS ID

Amount Due: USD 10,610.45 Payment Due: July 30, 2016

CHR Load: 5436513

Ship Date: 7/20/2016

Cust PO: 7182016_521

Branch Code: 0215 Managed Procurement Services

CHR SO: 7248579

Freight Payer Ref: 7182016_521

ITEM DETAIL

Table with 5 columns: Description, Quantity, UOM, Weight, Unit Price, Total. Lists various produce items like Broccoli, Cabbage, Garlic, Lettuce, Salad Mix, Kale, Corn, etc.

Sub-Total: USD 10,610.45 Payment Received: USD 0.00 Amount Due: USD 10,610.45

C.H. Robinson Company, 14800 Charlson Rd, Eden Prairie, MN 55347-5042

Fed Tax ID 41-0680048, D&B 806737383, MC 131029, Tel: 800-777-5779

Please reference invoice 256292288 when remitting payment.

If you have questions regarding this invoice or your account, please call Melanie Salo at 800-487-1638 or email



Invoice

Taylor Farms California, Inc.

P.O. BOX 742145
Los Angeles, CA 90074
US

Ph :: (831) 676-9001
Fax :: (831) 754-0697

PO#
48521
(48597)

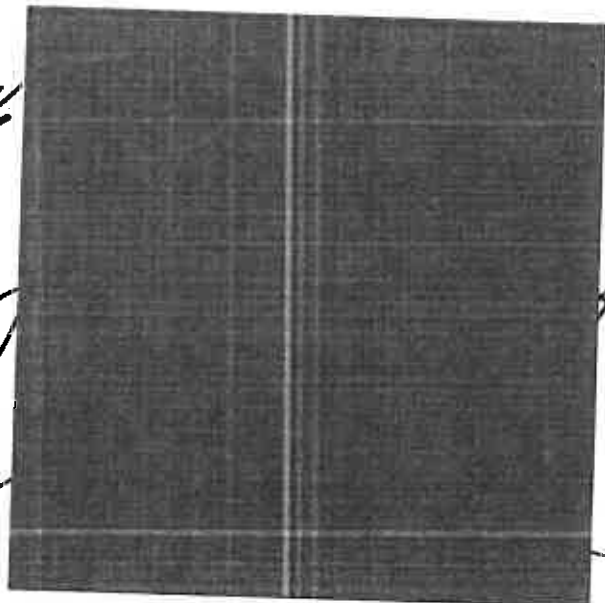
Number: CAI-838889
Invoice Date: 7/21/2016
Sales order: SO-893106
Ship Date: 7/21/2016
Vendor Taylor Id
Customer PO
Purchase order
Payment: 21 days
Inv Acct: 197500
Fax: (304)4610466

BILL TO:
CROOK BROTHERS / WEST VIRGINIA
205 GREY FLATS RD
Beckley, WV 25801
US

SHIP TO:
CROOK BROTHERS / WEST VIRGINIA
205 GREY FLATS RD
Beckley, WV 25801
US

Carrier/Agent certifies that the TRU eqpt is in compliance with CA regulations:
CA Org Reg 27-001607; Certified to terms of US-Canada Org equiv arrangement

Item number	Description	Qty	UOM	Price	Amount
1210029	TAYLOR FARMS CELERY STICK BWW VP 4/5# WO2016200	10	CASE	18.2000	182.00



Total Qty: 10

Subtotal	182.00
Total misc. charges	0.00
Total	182.00
Paid	0.00 USD
Balance Due	182.00 USD

Due date 8/11/2016

"The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received."

INVOICE

HORTON'S PRODUCE, INC.

44 WINDING RIDGE RD.
HILLSVILLE, VA 24343
PHONE (276) 728-9962 FAX (276) 728-4446

INVOICE NUMBER:

115152
INVOICE DATE:

7/18/16
PAGE

1

48399^{lot}

OLD TO:

SHIP TO:

CROOK BROTHERS
599 MARKET ROAD
BECKLEY, WV 25801

CROOK BROTHERS
599 MARKET ROAD
BECKLEY, WV 25801

CUSTOMER ID	CUSTOMER PO	PAYMENT TERMS
-------------	-------------	---------------

SALES REP ID	SHIPPING METHOD	SHIP DATE	DUE DATE
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QUANTITY	ITEM	DESCRIPTION	BACKORDER	UNIT PRICE	EXTENSION
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5.00 ✓	1701	CABBAGE- BAG GREEN USA		7.50	262.50
3.00 ✓	1702	CABBAGE- BOX GREEN USA		9.50	142.50
1.00 ✓	2103	BICOLOR CORN USA 4 DOZ.		13.50	135.00
1.00 ✓	2155	CUCUMBERS - SUPER SELECT USA		16.00	320.00
1.00 ✓	4901	TOMATOES-XL		15.95	478.50
1.00 ✓	4908	YELLOW TOMATOES- 25# USA		25.00	125.00

By: Kevin Treadway

Date: 7-18-16 Time: 6:00 am/pm

CCP Approved: KT Temp: 38°

Lumper Fee: 0

Truck Condition: GOOD

James Roth

CHECK NO:

SUBTOTAL	1,463.50
SALES TAX	
FREIGHT	
TOTAL INVOICE AMOUNT	\$1,463.50
PAYMENT RECEIVED	
TOTAL	\$1,463.50

Charge of 1 1/2% will be charged on balance over 30 days. Interest and attorney fees necessary to collect any balance due hereunder shall be considered sums owing in connection with this transaction under the PACA trust. All agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities disclaims all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.



INVOICE

Correspondence To:
 Del Monte Fresh Produce N.A., Inc.
 P.O. BOX 149222
 Coral Gables, FL 33114-9222
 (305) 520-8400

Remit Payments To:
 Del Monte Fresh Produce N.A., Inc.
 PO BOX 741308
 ATLANTA GA 30374

Bill To:
 CROOK BROTHERS WHOLESALE
 599 MARKET RD

 BECKLEY WV 25801-8533

Ship To:
 MULTI FRESH INC
 250 GREY FLAT RD

 BECKLEY WV 258018533

PO
48389

Page 1 of 2

Invoice #	Invoice Date	Ship Date	Order #	PO #1	PO #2	AWB/Trailer #	Manifest #
3883546	07/19/2016	07/18/2016	3883546	Marty			STD CBW

PRODUCT DESCRIPTION				OR	WHS	UP	SP	QTY	PRICE	TOTAL
B		40	DM BANANAS	P	CR	CBW	CB CB	20	\$17.00	\$340.00
B	24C	10	DM BANANA DM 24-COUNT BOX	P	GU	CBW	CB CB	30	\$6.00	\$180.00
B	24C	10	DM BANANA DM 24-COUNT BOX	P	GU	CBW	CB CB	30	\$6.00	\$180.00
B		40	RO BANANAS	P	GU	CBW	CB CB	48	\$13.00	\$624.00
B		40	RO BANANAS	P	CR	CBW	CB CB	24	\$13.00	\$312.00
B	IP	40	DM BANANAS	P	GU	CBW	CB CB	24	\$17.00	\$408.00
B	IP	40	DM BANANAS	P	GU	CBW	CB CB	*12	\$17.00	\$204.00
PN		50	DM PLANTAINS	P	GU	CBW	CB CB	1	\$26.00	\$26.00
P	007	MD 25	DM FRESH PINEAPPLES	P	ALD	CR	CBW CB CB	70	\$15.00	\$1,050.00
P	008	MD 25	DM FRESH PINEAPPLES	P		CR	CBW CB CB	60	\$14.00	\$840.00
CA	012		DM CANTALOUPE	P		AZ	CBW CB CB	72	\$15.00	\$1,080.00
HD	006		NL HONEYDEWS: MELON 6CT 28#			US	CBW CB CB	50	\$14.00	\$700.00
G	FS		DM GRAPES	P	GCB	CA	CBW CB CB	80	\$23.00	\$1,840.00
AV	048	HS 25	DM AVO: HASS 48CT OL	P		MX	CBW CB CB	16	\$65.00	\$1,040.00
AV	60C	HS 25	DM AVO: HASS 60CT DM	P		MX	CBW CB CB	16	\$65.00	\$1,040.00
BP	GR	11	NL BELL PEP: RED BULK 11# NL	P		CD	CBW CB CB	10	\$20.00	\$200.00
BP	GY	11	NL BELL PEP: YELLOW BULK 11# NL	P		CD	CBW CB CB	10	\$20.00	\$200.00
CK	012	HH 13	NL CUCUMBERS: HOT HOUSE 12CT			CD	CBW CB CB	20	\$10.00	\$200.00
XP		65	BLU CHEP PALLETS			US	CBW CB CB	4	\$0.00	\$0.00

DEL MONTE FRESH PRODUCE N.A., INC. REMITTANCE ADVICE

Bill To: 487860
Bill To Name: CROOK BROTHERS WHOLESALE
P.O. #: Marty

Invoice #: 3883546
Invoice Date: 07/19/2016
Invoice Amount: \$10,464.00
Remittance Amount:



Castellini Company LLC
Club Chef LLC
Grant County Foods

P.O. Box 721610
 Newport, Kentucky 41072-1610
 (859) 442-4650 Fax (859) 442-4635

Please Remit To:
 P.O. Box 632559
 Cincinnati, OH 45263-2559

INVOICE INVOICE

Invoice Date	Invoice Number	Page
7/18/16	7302873	** 1

SOLD TO:

Crook Brothers
 250 Grey Flats Road
 Beckley, WV 25801

SHIP TO:

Crook Brothers
 250 Grey Flats Rd.
 Beckley, WV 25801

Castellini Ticket Number	Delivery Date	Customer PO Number	Customer Number	Ship Via	Terms
0435599	7/19/16		074510	GCF Shuttle to	NET 10 DAYS
Quantity	Description	Unit Price	Extended Price		
14	Banana, Delmonte 40#	8.00	112.00		
18	Banana, Dole Cont. 40#	8.00	144.00		
	1 WOOD PALLETS	.00	.00		
32	** TOTAL QUANTITY **				

Total Amount Due

256.00

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Past due invoices shall accrue interest at 1½% per month. If overdue accounts are referred to an attorney, you agree to pay our attorney's fees plus the costs of all legal action as an additional charge under the contract of sale covered by this invoice. Additionally, all interest and attorney's fees are sums owing in connection with the transaction.



Castellini Company LLC
Club Chef LLC
Grant County Foods

P.O. Box 721610
 Newport, Kentucky 41072-1610
 (859) 442-4650 Fax (859) 442-4635

Please Remit To:
 P.O. Box 632559
 Cincinnati, OH 45263-2559

INVOICE INVOICE

Invoice Date	Invoice Number	Page
7/17/16	7302820	1

SOLD TO:

Crook Brothers
 250 Grey Flats Road
 Beckley, WV 25801

SHIP TO:

Crook Brothers
 250 Grey Flats Rd.
 Beckley, WV 25801

Castellini Ticket Number	Delivery Date	Customer PO Number	Customer Number	Ship Via	Terms
0435577	7/18/16		074510	GCF Shuttle to	NET 10 DAYS
Quantity	Description	Unit Price	Extended Price		
5	Banana, Singles 150ct CS	18.50	92.50		
15	Banana, Singles 10# 120584	6.00	90.00		
8	Tomato, 4x5 2 Lyr.P.P.	12.80	102.40		
80	Tomato, Cull 25#	10.00	800.00		
40	Tomato, 6x6 25# 704288	14.40	576.00		
40	Tomato, 5x6 25#	14.40	576.00		
5	Tomato, 4x5 10#	7.80	39.00		
8	Tomato, 5x5 2 Lyr.P.P.706507	12.80	102.40		
10	Tomato, 25# Roma Mex.730025	15.00	150.00		
	4 WOOD PALLETS	.00	.00		
211	** TOTAL QUANTITY **				

Total Amount Due

2528.30

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by Section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

Past due invoices shall accrue interest at 1½% per month. If overdue accounts are referred to an attorney, you agree to pay our attorney's fees plus the costs of all legal action as an additional charge under the contract of sale covered by this invoice. Additionally, all interest and attorney's fees are sums owing in connection with the transaction.

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code, §5A-3-37**. (Does not apply to construction contracts). **West Virginia Code, §5A-3-37**, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

- 1. Application is made for 2.5% vendor preference for the reason checked:**
Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification;
 Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **or,**
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**
- 2. Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
- 3. Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or,**
- 4. Application is made for 5% vendor preference for the reason checked:**
Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**
- 5. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**
- 6. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
- 7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**
Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: CROOK BROTHERS

Signed: [Signature]

Date: 10/06/16

Title: President

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

PURCHASING AFFIDAVIT

MANDATE: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: CROOK BROTHERS

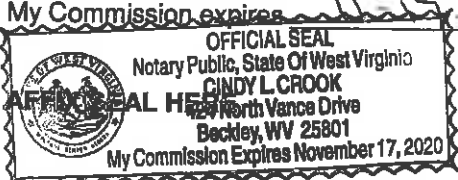
Authorized Signature: [Signature] Date: 10/06/16

State of WV

County of Raleigh, to-wit:

Taken, subscribed, and sworn to before me this 6th day of October, 2016.

My Commission expires 11/17/20, 2016



NOTARY PUBLIC [Signature]