

## FY21 MEFAP Turkey Bid - Attachment B

### THE GREATER BOSTON FOOD BANK FOOD PRODUCT PURCHASING AGREEMENT – MEFAP Turkeys

This agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_  
by and between \_\_\_\_\_ (herein called the “Company”) and  
The Greater Boston Food Bank (herein called “GBFB”) at 70 South Bay Avenue,  
Boston, MA 02118.

GBFB Staff Only

The Company is to provide food products meeting specification as indicated on the Turkey Bid Sheet to The Greater Boston Food Bank (GBFB), Merrimack Valley Food Bank (MVFB), and Worcester County Food Bank (WCFB), collectively herein “The Food Banks” at the addresses indicated and during the dates indicated.

1. The Company agrees that it will comply with all applicable provisions of the following regulations:
  - a. United States Government, Department of Health and Human Services
  - b. United States Government, Department of Agriculture
  - c. Commonwealth of Massachusetts, Department of Public Health
  - d. Commonwealth of Massachusetts, Department of Agricultural Resources
  - e. Commonwealth of Massachusetts, Department of Education, Nutrition Programs and Services
  - f. All other applicable laws and regulations
2. Governing Law – This Agreement shall be governed by and construed in accordance with the applicable laws of the Federal Government and the internal laws of the Commonwealth of Massachusetts, without reference to the conflicts of laws or choice of law provisions thereof. Pursuant to 801 CMR 21.07(1)(c) of the Code of Massachusetts Regulations, GBFB reserves the right to negotiate with The Company on any specific item or item(s), which results in lower costs or in a more cost effective or better value than was presented in the Bidder’s originally selected response. Failure to agree upon pricing, terms, and conditions which reflect market conditions may result in early termination by GBFB.
3. Attachment A – The Turkey Bid Sheet is the purchase order for all items as to which a bid has been marked “Accepted” by GBFB, including quantities, unit, pack, size and price according to the terms of the bid.
4. All prices are delivered prices as indicated in the bid document and include taxes. Individually, The Food Banks are 501(c)(3) organizations, and are exempt from tax. Copies of tax exemptions are available upon request.
5. The Company has a duty to disclose and transfer economic benefit to GBFB on a timely basis of any and all manufacturer coupons, volume purchase agreements,

rebates or bulk sale savings that they receive through purchases made in connection with this contract. The Company also has a duty to take the steps necessary to ensure that such coupons/rebates/savings redemption forms are delivered to GBFB within a timely fashion before the rebate/coupon/savings expire.

6. A list of the delivery sites for The Food Banks is included in Attachment A, the Turkey Bid Sheet. **Appointments for delivery must be made with the contact person at the delivery site, at least 3 business days in advance.** The Food Banks reserve the right to refuse delivery if a dock appointment is not made prior to arrival of the truck.
7. All products must be palletized and indicate the awarded label. All deliveries must include a bill of lading stating number of cases and actual net weight of the product being delivered. All cartons on each pallet of product must be clearly labeled to indicate the contents of the package, as well as the quantity of product in the carton in compliance with prevailing labeling requirements in effect at the time of delivery.
8. The Food Banks will take title of all products only after inspection of the food product (which inspection shall occur at the time of delivery) and determination that the product complies with the requirements and specifications of the contract. All food product must satisfy all applicable government laws and regulations, including applicable state and local health codes. The Company shall bear all responsibility for and risk of loss of, or damage to the goods until delivery of the goods to The Food Banks and acceptance by each location. Shipments sent C.O.D. without GBFB's written consent will not be accepted. GBFB reserves the right to return all items received that are found to be less than the quality or specifications agreed to. GBFB will not pay The Company for food which is not delivered, or which is rejected. GBFB shall notify The Company, in writing, as to the type and quantity of food product rejected and the reasons for rejection.
9. In instances of late delivery of ordered product or instances where the product delivered and received is found to be less than the quality agreed to, GBFB, at its option, if determined to be necessary, may purchase replacement or alternate goods elsewhere and may deduct the cost and expense thereof to GBFB, if any, from The Company invoices, and may, in its sole discretion, terminate this agreement in accordance with Section 15 hereof, as a termination "with cause". Rejected food product shall be disposed of as mutually agreed by the parties. Whenever any delay (or any threatened delay) in delivery is foreseen by The Company, The Company shall immediately notify GBFB in writing of such threatened or actual delay, but any such notice shall not affect the rights of GBFB hereunder, including the right to terminate this agreement.
10. The Company shall defend and fully indemnify The Food Banks and hold their employees harmless from any and all liability of every nature and description which The Food Banks or any of their employees or agents, or any person or entity to whom The Food Banks provide food products purchased by GBFB under this Agreement, may suffer through personal injury or death caused by any damage or

unhealthy product delivered to The Food Banks by The Company, or any act or omission in an area falling within the scope of responsibility hereunder, of The Company, its agents or employees.

11. The Company will designate one person at its main place of business as an authorized account representative for GBFB. This person will be responsible for all activity relating to The Food Banks' purchase and will provide a summary of the items and services furnished and the cost thereof.
12. Neither party may change this agreement unless the change is agreed to by the other party and a written amendment is executed.
13. Shipment of all or any part of this order constitutes acceptance of all terms and conditions herein without reservations.
14. **NO PROVISION CONTAINED IN THE COMPANY'S INVOICE OR ANY OTHER COMMUNICATION OF THE COMPANY SHALL BE BINDING ON GBFB IF INCONSISTENT WITH, CONTRARY TO, OR IN ADDITION TO THE TERMS AND CONDITIONS CONTAINED HEREIN, UNLESS SUCH PROVISION IS EXPRESSLY AGREED TO IN WRITING BY AN AUTHORIZED OFFICER OF THE GREATER BOSTON FOOD BANK.**
15. GBFB specifically reserves the right to cancel this agreement or any portion thereof with cause because in the opinion of GBFB, the food product supplied by The Company is not satisfactory or consistent with the terms of the agreement, or, in GBFB's opinion, The Company will not be able to perform its obligations hereunder, or for any other material breach of this agreement, on forty-eight (48) hours' notice. It is further understood that, in the event of cancellation of this agreement, GBFB will be responsible only for the payment of food product delivered and accepted.
16. Terms of payment: 30 days after GBFB's receipt of product, invoice, or contracted delivery date, whichever is latest.
17. **All invoices are to be sent to GBFB, 70 South Bay Avenue, Boston, MA 02118, Attention: Accounts Payable or in electronic PDF format to [ap@gbfb.org](mailto:ap@gbfb.org) and shall be itemized. Invoices should be mailed or e-mailed and NOT sent with the deliveries. Payment can only be made from original invoices and not from statements. All invoices must state The Greater Boston Food Bank as the 'Bill to' party and must reference the associated GBFB purchase order number. All invoices for accepted food product must be made at the per pound price specified in the accepted bid and must reflect the actual net weight received, as noted on the bill of lading accompanying delivery. No payment shall be made unless the required delivery receipts have been signed by a representative of The Food Banks.**
18. The Company certifies that the agreement is made in good faith, without fraud, or connection of any kind with any other company for the same work, and that The

Company is performing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

19. Any individuals rendering services pursuant to this agreement on behalf of The Company shall be deemed employees or independent contractors of The Company, and not of GBFB.

20. The Company shall not subcontract or assign its responsibilities under this agreement without the express prior written consent of GBFB.

21. Notices

- a. Form of Notice. All notices, requests, claims, demands and other communications between the parties shall be in writing.
- b. Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, (iv) by facsimile or (v) by electronic mail to the address of the party specified in this Agreement or such other address as either party may specify in writing.
- c. Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the [fifth (5th)] day following mailing, whichever occurs first.

If to The Food Banks:

Mr. Dan O'Neill  
The Greater Boston Food Bank, Inc.  
70 South Bay Avenue  
Boston, MA 02118  
617-427-5200  
[doneill@gbfb.org](mailto:doneill@gbfb.org)

If to [Insert Company name here]

Person's Name:  
Company Name:  
Address:  
City, State, Zip:  
Phone:  
e-mail:

**FISCAL YEAR 2021 THE GREATER BOSTON FOOD BANK  
FOOD PRODUCT PURCHASING AGREEMENT  
MEFAP TURKEYS**

**FOR THE GREATER BOSTON FOOD BANK:**

**Approved:**

\_\_\_\_\_

Catherine D'Amato  
President/CEO  
GBFB  
70 South Bay Avenue  
Boston, MA 02118

Date: \_\_\_\_\_

**Approved:**

\_\_\_\_\_

Dan O'Neill  
Director of Purchasing  
GBFB  
70 South Bay Avenue  
Boston, MA 02118

Date: \_\_\_\_\_

**FOR THE SUPPLIER:**

**Approved:**

\_\_\_\_\_

Name:

Title:

Address:

Date: \_\_\_\_\_

**Approved:**

\_\_\_\_\_

Name:

Title:

Address:

Date: \_\_\_\_\_

**Authorized Account Representative:**

\_\_\_\_\_

Name:

Title:

Address:

Date: \_\_\_\_\_