



**SCHOOLS IN ACTION
REQUEST FOR PROPOSAL
VENDED MEALS**

SIA- Magnolia Science Academy San Diego

DUE DATE: Monday, April 15th, 2024



INTRODUCTION

Schools in Action (SIA) (hereinafter referred to as the school food authority [SFA]) is requesting proposals for their vended meal service (breakfast, lunch, snack, and SSO meals). The program will run from **July 1, 2024 – June 30, 2025**, with the option to extend up to four years.

Respondents should not construe from this legal notice that the SFA intends to enter into a fixed-price contract with the Respondent unless, in the opinion of the SFA, it is in the best interest of the SFA to do so. The SFA reserves the right to negotiate final contractual terms with the successful Respondent.

The SFA reserves the right to reject any or all proposals, and to waive any errors or corrections in a proposal or in the proposal process. The SFA will award the contract based on a review and analysis of the proposals that determines which proposal best meets the needs of the SFA. Following the review and analysis of all responsive proposals, the SFA will make a recommendation to their Board at its regularly scheduled meeting.

ABOUT SCHOOLS IN ACTION

Schools In Action (SIA) is a full service School Food Authority (SFA) consulting and management firm based in California. We consult and manage food service programs for schools by providing all of the administrative support, training and education so that they may operate food programs safely and in compliance with state and federal regulations.

Schools in Action serves a diverse range of schools from K-12 and with various socio-economic demographics. Schools we represent serve breakfast, lunch, snacks, SSO meals, and/or the fresh fruit and vegetable program. This RFP is for one school under the Schools in Action SFA program that is located in the San Diego area.

GENERAL INFORMATION

SCHOOLS IN ACTION is requesting proposals from qualified vendors for the provision of vended meals to SCHOOLS IN ACTION, at the Charter School listed in Table A.

The vendor will be contracted to provide breakfast, lunch, snacks, and SSO meals in individually portioned meals. The vendor shall base pricing on providing breakfast, lunch, snack, and SSO meals.

The Request for Proposal (RFP) documents are available at Schools in Action Web site at <https://www.schoolsinaction.com>

SCOPE OF WORK

SIA is seeking an organization that is familiar with the following programs:

- The National School Lunch Program (NSLP)
- School Breakfast Program (SBP)
- Afterschool Meal Supplements (Snacks)
- Seamless Summer Option (SSO)

The ideal food vendor will have the following qualifications:

- Provide fresh, nutritious, tasty, and visually appealing meals.
- Provide fresh fruit and/or vegetables with every meal.
- Provide hot meal options for breakfast and lunch at least three times a week.
- Provide low fat or nonfat milk with each meal.
- Provide appropriate utensils and napkins as needed for the meals.
- Provide consistent quality control.
- Provide nutrition advocacy.
- Provide freshly prepared scratch meals at least twice per month.
- Has previous experience working with multiple school sites.
- NSLP compliant meals/snacks (all meals must be eligible for State and Federal reimbursement).
- NSLP menu recordkeeping and planning necessary to receive reimbursements.
- Be familiar with State and Federal regulations pertaining to operations in

a school setting.

- Comply with all state, county and city health and sanitation requirements.

All schools listed in this RFP reserve the right to inspect Vendor's facilities at any time during the contract period.

- Has valid certifications and insurance documents.
- Provide fresh vegetables with every lunch meal.
- Provide fresh fruit with every breakfast, and lunch meal. No canned/frozen fruits.
- No hydrogenated oils.
- No artificial trans fats.
- No more than 30% of calories from total fat, and no more than 10% of calories from saturated fats.
- No deep fried foods.
- No overly processed foods.
- No high fructose corn syrup.
- No artificial preservatives, colors, flavors or sweeteners.
- No MSG.
- Foods with little or no added sugar.
- Meats shall be free of nitrates and nitrites.
- No animal by-products.
- No mechanically separated meats (aka "pink slime").
- No BHA & BHT.
- Whole grains must be offered.
- Provide a daily vegetarian option.
- Use organic and locally produced ingredients whenever possible.
- Participant in USDA Foods Cooperative Program and utilize USDA Foods to the fullest extent based on the needs of the SFA

The Vendor must fulfill the following responsibilities in order to serve the school in the SFA listed in Table A. **NO MORE than one (1) vendor will be awarded for the schools in this Table.**

1. Provide “Ready to Eat” meals to the school site identified below.
 - a. “Ready to Eat” is defined as meals delivered to the school site, at the proper serving temperature and requiring no additional refrigeration or heating if applicable based on equipment availability on site.
 - b. Prepare, and deliver meals that meet the National Lunch Program (NSLP), the School Breakfast Program (SBP), the Afterschool Meal Supplement (AMS), and the Seamless Summer Feeding Option (SSFO) requirements for reimbursable lunch and breakfast meals and in compliance with Meal Vendor and SFA HACCP an food safety
 - c. Offer a cold or grab and go breakfast option.
 - d. Offer a hot meal for breakfast and lunch at least two times a week.
 - e. Exception being freshly prepared scratch meals on at least 3 occasions per month.
2. For the school listed below that is able and willing to utilize vendor refrigeration and heating equipment for service, it is at the Vendor’s discretion to submit pricing based on service with specific equipment. Since heating on site is not a requirement by the SFA or the school site, neither the SFA nor the school site will expense any money for equipment or potential electrical work needed. If the Vendor would like to propose service heating at an available school site, all costs for any upgrades and equipment should be stated in the bid either in direct up front or per meal amortized costs.
3. **Financial Goals.** Schools in Action expects the food service program to be a self sustaining program. The vendor must provide meals that are affordable to the school within the budget of the NSLP and SBP reimbursement. We would like to work with the vendor to minimize food waste and prevent overages that result in a negative environmental and fiscal impact. We need to have a vendor that provides healthy, tasty, fresh, and appealing meals that students want to eat in order to have a fiscally responsible program.
4. Daily paperwork, monthly paperwork, invoices, and other related documents including transportation records shall be prepared by the food vendor according to all relevant guidelines.

All costs are based on average daily participation of approximately **56** breakfasts per day, **155** lunches per day on about **180** school days and **19** SSO meals during **14** serving days.

| School Site Name | Address | Grades | 24-25 Projected Enrollment | Breakfast ADP | Lunch ADP | SSO ADP | Projected 24-25 FRL% | Equipment Available |
|----------------------|--|--------|----------------------------|---------------|-----------|---------|----------------------|--|
| MSA San Diego | 6525 Estrella Ave. San Diego, CA 92120 | 6-8 | 475 | 56 | 155 | 19 | 35.3% | Double door Refrigerator , Food Warmer |

VENDOR RESPONSIBILITIES

The Vendor shall be responsible for the following:

- Provide the schools with meals that meet all guidelines for the TK-12 grade Meal Pattern under the HHFKA menu planning option. All meals must be prepackaged and unitized. Fruits and vegetables must be portioned in ½ cup serving sizes (and 1 full cup for High Schools). Breakfast may be a hot or cold breakfast depending on the equipment available onsite. Lunch must have the option to be a hot or warm meal on at least two occasions per week.
- Provide two types of milk for breakfast and lunch.
- Provide the necessary utensils, napkins, trays, and condiments in sufficient quantity for the number of meals ordered.
- Provide to school no later than one (1) week prior to the end of each month a monthly menu covering the meals to be served for the following month.
- Provide the school with sack lunches for field trips when requested. All meals for field trips must meet the appropriate meal pattern requirements.
- Maintain the proper temperature of the breakfast, lunch, snack and SSO meals and components upon delivery.
- Maintain all necessary records on the nutritional components and quantities of the meals served at the school and make said records available for inspection by State and Federal authorities upon request.

- Provide documentation that they are abiding by the Buy American requirements. [7 CFR, Section 210.21(d)]
- Provide documentation justifying their use of exceptions to the Buy American provision.
- Utilize USDA Foods to the fullest extent based on the needs of the SFA and apply commodity credits, DOD Fresh Credits and/or any other resulting discounts to monthly invoices.
- Attend monthly school check-ins online. Meetings would be between the vendor, the Schools in Action Representative, and a school based Meal Program Staff Member.
- Attend monthly Schools in Action check-ins online. Meetings would be between the vendor Representatives and the entirety of the Schools in Action staff. Will be a platform to discuss issues, progress, and find solutions for school meals.

SCHOOL RESPONSIBILITIES

School will be responsible for the following:

- Weekly or monthly ordering of the number of meals needed for each day of the following week.
- Condition and care of meals once accepted upon delivery.
- Service of meals to students.
- Maintenance of the premises, equipment and facilities where meals will be served, and will adhere to the highest standards of cleanliness and sanitary practices to ensure compliance with state and local health and sanitation requirements related to the food service program.

SFA RESPONSIBILITY:

- Payment of invoices to the vendor using net 60 terms.
 - Payment process will be initiated once all participating Charter Schools submit meal counts to their assigned SIA Representative for review. Please note, claims for state and federal reimbursement can be submitted only after careful review for accuracy of submitted meal counts.
 - No payment will be made for meals that are spoiled or unwholesome at time of service, do not meet the specifications, or do not otherwise meet

the requirement of the agreement. However, no deduction will be made unless SIA provides written notification of the meal service for which the deduction is to be made, specifying the number of meals for which we intend to deduct payment and setting forth the reasons for the deduction. SIA will provide such notice no later than three (3) business days after the date the meal was served.

PROPOSAL SPECIFICATIONS

Contract Period:

The contract period will be July 1, 2024, through June 30, 2025, with the option to renew up to four (4) one-year contracts.

Proposal Instructions:

Proposals shall be received on or before **Monday April 15th, 2024** for vended meal service described herein. Proposals received after the above mentioned time and date will be rejected and returned unopened. Respondents shall submit one copy in digital format (e.g., PDF, Google File) as an email attachment and one paper copy version. Faxed proposals are not acceptable. Proposals must be clearly marked in the lower right corner: **"VENDED MEALS RFP- SIA Magnolia Science Academy San Diego"**. Respondents may submit their questions regarding the information presented in this RFP to Kalin Balcomb via email at kalin.balcomb@schoolsinaction.com, no later than **Friday, March 22nd, 2024 at 5 PM**. The SFA will answer all questions received by the deadline in writing without exposing the query source. This will be the sole process for asking and answering questions regarding this RFP. Respondents may not contact SFA employees directly to ask questions. The SFA will provide answers to questions by **Friday, March 29th, 2024**.

Proposals must be clear and concise. Proposals shall conform to the RFP format and binding specifications or they will be rejected. Respondents must include all information requested in this RFP. SIA reserves the right to reject a proposal if all requested information is not provided.

Schedule of Events

Vended Meals RFP-SIA Magnolia Science Academy San Diego

| | | |
|--|---------------|--------------------------|
| Board Meeting – RFP Approval | Saturday | 03/02/2024 |
| Release of RFP | Friday | 03/08/2024 |
| First Public Notice | Friday | 03/08/2024 |
| Second Public Notice | Friday | 03/15/2024 |
| Respondent Question Submission Deadline | Friday | 03/22/2024 |
| SFA Provides Answers | Friday | 03/29/2024 |
| Deadline for Submission of Sealed Proposal | Monday | 04/15/2024 |
| Proposals Opened | Tuesday | 04/16/2024 |
| Proposals Evaluated | Monday-Friday | 4/23/2024 - 4/26/2024 |
| Board Meeting – Proposal Approval | Saturday | 06/08/2024 |
| Anticipated Contract Award Date | Friday | 06/14/2024 |

Exception to RFP:

Include exceptions to the Agreement term and conditions presented to submit additional information pertinent to RFP (brochures, reading material, etc.) with original response.

Proposal Distribution:

Respondents shall submit one copy in digital format (e.g., PDF, Google File) as an email attachment and one paper copy version.

- A. The paper copy must contain the original signature of the individual(s) authorized to bind the Respondent contractually and be labeled “Master Copy”.
- B. The Respondent must ensure the digital copy is complete and inclusive of all materials contained in the paper copy, including any required signatures. If there is an inconsistency between the paper and digital copies, the paper copy will take precedence.
- C. The sealed proposal envelopes must be marked legibly with the SFA’s RFP number and title, and the SFA name and address, as shown in the following

example:

Proposal—Vended Meals

Vended Meal RFP- SIA Magnolia Science Academy San Diego
Schools in Action
Kalin Balcomb
kalin.balcomb@schoolsinaction.com

OR

Postal Mail 5261 ½ E. Beverly Blvd, Los Angeles, 90022

All forms and attachments must be filled out in ink, typewritten, or word processed. The proposals must be signed by an authorized member of the firm. Prices and terms of the proposal must be valid for the duration of any resulting contract, unless changes are made through mutual consent in writing.

All inquiries for information are to be directed to:

Kalin Balcomb
Executive Director of Schools in Action
5261 ½ East Beverly Blvd
Los Angeles, CA 90022
(323) 597-4341
kalin.balcomb@schoolsinaction.com

Other department personnel are not allowed to discuss the Request for Proposal with anyone, including responders, before the proposal submission deadline.

REVISIONS TO THE REQUEST FOR PROPOSAL:

In the event it is necessary to revise any part of the Request for Proposal, revisions will be provided to all Vendors who received the initial Request of Proposal.

WITHDRAWAL OF PROPOSAL:

Proposals may be withdrawn in writing and submitted by facsimile, mail, or hand delivery from the Offer or prior to the deadline for receipts of proposals. No oral withdrawals will be accepted.

REQUIREMENTS FOR SUBMITTING A PROPOSAL:

Proposals should be as thorough and detailed as possible so SCHOOLS IN ACTION can properly evaluate the proposal and the vendor's capability to provide the required services. The Vendor must state any deviations and/or exceptions from the specifications and/or terms and conditions described herein. Vendors are required to submit the following items or information but is not limited solely to these items:

- Description of services including but not limited to the following:
 - Menu development rationale
 - Equipment needed
 - Nutrition advocacy

- Duration and extent of experience in the operation of school meal services
- Cost per meal (breakfast, lunch, snack, and SSO meals)
- Cost additional services and fees (Pizza surcharge, therapeutic meals, and late delivery charges.
- Sample monthly menu for breakfast, lunch, snack, and SSO meals including nutritional information showing compliance with federal and state meal program requirements.
- A copy of current health certifications for the food service facility in which it prepares meals for the NSLP.
- Proof of liability insurance and proposed indemnity language
- Materials/supplies provided
- Verification of participation in USDA or DOD Foods Cooperative.
- Three professional references from schools currently operating the National School Lunch Program.

Include a copy of the contract to be signed at time of award, to include all required language as specified by the California Department of Education Nutrition Services Division.

EVALUATION OF PROPOSALS

Proposals will be opened on or after the date and time specified. During the evaluations process, the SFA may ask Respondents to clarify information in the proposals, but Respondents may not change their proposals.

An error in the proposal may cause the SFA to reject that proposal; however, the SFA may, at its sole discretion, retain the proposal and make certain corrections. When determining if a correction will be made, the SFA will consider the conformance of the proposal to the format and content required by the RFP and that the Respondent's intent is clearly established based on review of the whole proposal. Based on that established intent, the SFA may choose to correct errors such as obvious grammatical or punctuation errors and arithmetic errors. The Master Copy of the proposal shall have priority over additional proposal copies.

The SFA will open proposals to determine if they contain all the required information in accordance with this RFP. The SFA will evaluate qualifying proposals using the following criteria:

| CRITERIA | MINIMUM STANDARD | EVIDENCE/DOCUMENTS REQUIRED TO DEMONSTRATE | MAXIMUM POINTS |
|--|---|---|-----------------------|
| Cost Lowest priced proposal:25 Second lowest: 20 points Third lowest: 10 points | Vendors must submit cost information per meal. | Cost of individual meals. Price per meal (Breakfast, Lunch, & Snack, and SSO meals) as clearly articulated in Attachment _____. | 25 |
| Administrative Requirements | The Respondent included all required information in accordance with the General Instructions and Proposal Requirements. | | 15 |
| Experience with School Breakfast and National School Lunch Programs. | Experience in serving SBP, NSLP, NSLP ASP, and SSO In California. A minimum of 5 years of company experience is required for full points. | Documentation of the year the company was founded, when SBP, NSLP, NSLP ASP, and SSO experience began , and a 3 year complete list of all SFA's served. | 15 |
| Customer Service Description | Description of communication processes for orders, urgent notifications, changes, etc. | Additionally, include a description of assigned staff to the SFA, additional communication tools the Vendor uses to share information, and a description of the company's policies on emergency changes or cancellations. | 10 |

| | | | |
|---|--|---|------------|
| Meal Order Process, Flexibility, and Delivery Effectiveness | Vendors shall provide a description of their ordering process, time frame for meal order changes, and any cost related to order changes. Vendors shall also provide a thorough description of the appropriate and timely delivery capability. | Include a detailed description of the ordering process, typical timelines, date allowances for changes, fees for changes, and any other relevant ordering process information. Should also include information regarding delivery capacity. | 5 |
| Menu Variety | Vendor provides evidence of an appealing and culturally relevant menu, with sufficient variety to not cause meal fatigue. Vendors have the ability to provide freshly made scratch meals on 4 occasions per month. Vendors must offer hot meals for breakfast and lunch at least 3 times a week. | Include a 4-week sample menu for each meal service provided. | 10 |
| The financial stability of the Respondent. | Based on the Proposal Questionnaire responses and the Cover Letter, the Respondent demonstrates a complete understanding of the SFA's food service program and its service requirements. | Complete and detailed answers to each questions included in the Section ____ | 10 |
| Corporate capability and experience as measured by performance record, years in the industry, relevant experience, number of SFAs served, client retention and satisfaction, and references. | Vendors must provide at least three detailed customer references based on the sample provided. Vendor understands that the SFA retains the right to contact any current or previous vendor clients to serve as additional references. | Vendor shall provide a list of all current California SBP, NSLP, NSLP ASP, and SSO accounts along with a list of other accounts from the previous two years. Vendor shall ensure all terminated and non-renewed accounts are included in the Questionnaire. | 10 |
| TOTAL POINTS | | | 100 |

The SFA will score and rank selected proposals by assigning a score between zero and the maximum score to each proposal criterion. The SFA will recommend awarding the contract to the most responsive and responsible Respondent with the highest total proposal score.

Schools in Action reserves the right to reject all proposals.

Attachment C: Minimum Qualifications

A Respondent must meet all of the following minimum qualifications to the SFA's satisfaction to be given further consideration. Failure to satisfy any of the minimum qualifications may result in the immediate rejection of the proposal.

As of April 2024, both the Respondent's company and its key personnel meet all of the following minimum qualifications:

1. The Vendor has at least **five** years of experience with food service programs.
Yes____ No ____
2. The Respondent has the resources and ability to provide approximately **10,080** breakfasts, **27,900** lunches, and **266** SSO meals per fiscal year.
Yes____ No _
3. The Vendor is an approved commodity processor with the California Department of Education.
Yes____ No ____
4. The Vendor agrees to accept commodities from USDA Foods AND Department of Defense Fresh Fruits and Vegetables Program
Yes____ No ____
5. The Respondent has knowledge and experience with the School Breakfast Program and National School Lunch Program, and Summer Feeding Program.
Yes____ No ____
6. The Respondent has professional references that demonstrate and evidence the ability to perform the required services.
Yes____ No ____
7. The Respondent is licensed to do business in the state of California.
Yes____ No ____
8. The Respondent has a current health under their own name and location.
Yes____ No ____

Attachment D: Proposal Questionnaire

This proposal questionnaire is intended to provide the SFA with specific information concerning the Respondent's capability to provide services as described in the RFP. Please be as concise as possible and limit your responses **to no more than two pages per question, unless instructed otherwise. Type each question in the same order as listed in the questionnaire.**

1. Provide a general description of your company's qualifications and experience relevant to the minimum qualifications in Attachment C, along with any necessary substantiating information. Limit your responses to information about your company's capabilities.
2. Provide a statement indicating the year your company was founded; what the primary business(es) of the company is(are); the length of time the company has been providing food service management services (consulting, food purchase, etc.) and related services as described in this RFP. In addition, provide the duration and extent of experience the company has with similar SFA food management services.
3. Provide a general description of how your company will be able to provide the experience, ability, and financial standing necessary to meet the requirements set forth in this RFP.
4. Provide a complete list of SFAs that have **nonrenewed**, discontinued or terminated your company's services in the last five years and the reason(s) why.
5. Provide an organization chart for your company, a description of the lines of communication, and the responsibilities at each corporate level.
6. Provide a complete balance sheet or annual report (verified by a certified public accountant) for the last three years of operation.
7. Provide a description of promotional and marketing materials you will use to attract students to the program.
8. Provide a recommended transition plan that describes the steps the Respondent will take to begin providing the services described in this RFP.
9. Provide a description of the Vendor's operations and include:

Describe the Vendor's ability to deliver and/or prepare hot meals for breakfast and lunch service. Include a description of how the Vendor would deliver hot meals for second chance breakfast if requested

Attachment E: Respondent References

List three references to which the Respondent has provided NSLP, SBP, SNACK, and SSO services for at least one full year.

SFA reserves the right to contact additional references in addition to those listed below. Failure to complete and return this Attachment will cause your proposal to be rejected.

| | | |
|--|---------------|-----------------|
| Reference 1 | | |
| Name of Reference | | |
| Street Address | | |
| City | State | Zip Code |
| Contact Person | Contact Title | Contact Phone # |
| Brief Description of Services Provided | | |
| Dates of Service | | |
| Reference 2 | | |
| Name of Reference | | |
| Street Address | | |
| City | State | Zip Code |
| Contact Person | Contact Title | Contact Phone # |
| Brief Description of Services Provided | | |
| Dates of Service | | |
| Reference 3 | | |
| Name of Reference | | |
| Street Address | | |
| City | State | Zip Code |
| Contact Person | Contact Title | Contact Phone # |
| Brief Description of Services Provided | | |
| Dates of Service | | |

Vended Meals Contract for the National School Lunch, School Breakfast, and Snack Programs(s)

This Agreement ("Agreement") is entered into by and between _____ hereinafter referred to as the School Food Authority (SFA), and _____, hereinafter referred to as the Vendor. The effective date of this Agreement is _____.

This Agreement sets forth the terms and conditions upon which the SFA retains the Vendor to provide meals for the SFA's nonprofit and a la carte food service program, in accordance with the Scope of Work as shown in Exhibit _____. Furthermore, this Agreement sets forth the terms and conditions upon which the SFA will purchase meals from the Vendor and the Vendor will provide meals for the SFA's nonprofit food service program. The SFA and Vendor agree to abide by the rules and regulations governing the Child Nutrition Programs, in accordance with federal regulations including policy and instructions issued by the United States Department of Agriculture (USDA). The applicable regulations are 7 CFR 210 (National School Lunch Program), 7 CFR 215 (Special Milk Program), 7 CFR 220 (School Breakfast Program), 7 CFR 245 (Determining Eligibility for Free and Reduced Price Meals and Free Milk), 7 CFR 250 (Food Distribution Program), 7 CFR 225 (Summer Food Service Program for Children), and 7 CFR 3052 (Audit Requirements).

Schedule List days of the week and times meals are required for delivery or pick up.

| | |
|------------------------------|--|
| SY24-25 Lunch start time | |
| SY24-24 Breakfast start time | |
| SY24-25 Snack start time | |

| SFA Contact Information | | Vendor Contact Information | |
|---|----------------------------|---|----------------------------|
| Contact Person <i>First & Last Name</i> | Phone <i>Area Code/No.</i> | Contact Person <i>First & Last Name</i> | Phone <i>Area Code/No.</i> |
| Email Address | Fax <i>Area Code/No.</i> | Email Address | Fax <i>Area Code/No.</i> |
| Address <i>Street, City, State, Zip</i> | | Address <i>Street, City, State, Zip</i> | |

The fixed price per meal listed below is agreed upon by both parties as if no USDA Foods are used. Fixed price per meal to include cost of: transportation and delivery, meal purchasing and preparation, all smallwares.

| | Child Meals Price: | Adult Meals Price: |
|---------------------------------------|--------------------|--------------------|
| Breakfast (includes milk) | | |
| Lunch (includes milk) | | |
| Afterschool Meal Supplement (Snacks) | | |
| Vegan Meals (if a different price) | | |
| Non medically required substitutions: | | |

A. Agreement Period

The initial agreement period shall be **7/1/24 to 6/30/25**. Both parties agree to enter into this Agreement for a one- year period with the option to renew the Agreement for up to four (4) additional one-year periods by mutual agreement of the SFA and Vendor. Renewal shall be based on customer satisfaction with products, service, and price.

Annual Escalator Clause: changes in the per-meal price may be considered by the SFA only at the time of renewal. Any proposed per-meal price changes must be accompanied by documentation supporting such an increase. The SFA reserves the right to accept or reject any proposed price changes, in the best interest of the SFA. If the proposed per-meal price changes are accepted, they shall become effective on the first day of the contract renewal period.

Conditions for an annual escalator clause; the fixed per-meal price may be subject to an annual escalator as stipulated in this Agreement. Adjustment factors may include changes in third-party price indices from the Consumer Price Index (CPI); U.S. Bureau of Labor Statistics, Division of Consumer Prices and Price Indexes, PSB Suite 3130, 2 Massachusetts Avenue, NE Washington, DC 20212-0001; website at <http://www.bls.gov/cpi>. SFA will consider the lesser of the following two options either—

- 1) the average CPI (Food Away From Home) for the previous year
- or
- 2) three percent (3%).

B. The Vendor Agrees to

1. Invoice SFA for unitized meals in accordance with the number of meals requested.
2. Provide the SFA, for approval, a proposed cycle menu for the operational period, at least **10** operating days prior to the beginning of the period to which the menu applies. Any changes to the menu made after SFA approval must be approved by the SFA, and documented on the menu records. Meals must be planned, prepared, and served (if applicable) to meet the USDA meal pattern requirements and nutritional standards as outlined in Attachment C, Minimum Food Specifications.
3. Maintain full and accurate records that document:
 - a. the menus were provided to the SFA during the term of this Agreement,
 - b. a listing of all components of each meal,
 - c. an itemization of the quantities of each component used to prepare said meal, and
 - d. providing the SFA with daily production/transport sheets indicating how menu items contribute to meal pattern requirements and supporting documentation for contribution.

The Vendor agrees to provide meal preparation documentation by using yield factors for each food item as listed in the *USDA Food Buying Guide* or child nutrition labels or manufacturers' product information statement when calculating and recording the quantity of food prepared for each meal.

4. Maintain cost records such as invoices, receipts, and/or other documentation that exhibit the purchase or otherwise availability to the Vendor of the meal components and quantities itemized in the meal preparation records.
5. Maintain, on a daily basis, an accurate count of the number of meals, by meal type, prepared for and **delivered to** the SFA. Meal count documentation must include the number of meals requested by the SFA.
6. Allow the SFA to increase or decrease the number of meal orders, as needed, when the request is made within **72 hours** of the scheduled delivery time.
7. Present to the SFA an invoice accompanied by reports which itemizes the previous month's meals **delivered to** the SFA no later than the **10th** day of each month. The Vendor agrees to forfeit payment for meals which are not ready within one (1) hour of the agreed upon time for meals to be **delivered to** the SFA, are spoiled, or unwholesome at the time of **delivery to** the SFA, or do not otherwise meet the meal requirements contained in this Agreement. The Vendor shall pay the SFA the full amount of any meal over claims which are attributable to the Vendor's negligence, including those over claims based on reviews or audit findings that occurred during the effective dates of original and renewal of the awarded contracts. In cases of nonperformance or noncompliance on the part of the Vendor, the Vendor shall pay the SFA for any excess costs the SFA incurs by obtaining meals from another source.
8. Provide the SFA with a copy of all permits and licenses required by California law for the food service facility in which it prepares meals for the National School Lunch Program/School Breakfast Program (NSLP/SBP). The Vendor shall ensure that all health and sanitation requirements of the California Retail Food Code are met at all times.

9. Operate in accordance with current NSLP/SBP regulations. The Vendor agrees to comply with all other USDA regulations regarding food service vendors including those specified for commercial food service if applicable.
10. Not subcontract for the total meal, with or without milk, or for the assembly of the meal.
11. Be paid by the SFA for all meals delivered to the SFA in accordance with this Agreement and NSLP/SBP meal pattern requirements. Neither the California Department of Education (CDE) nor USDA will assume any liability for payment of differences between the number of meals prepared by Vendor for delivery to the SFA and the number of meals served by the SFA that are not eligible for reimbursement.
12. Make substitutions in the food components of the meal pattern for students with disabilities when the disability is certified by a signed statement from a licensed physician. For nondisabled students who are unable to consume regular meals because of medical or other special dietary need substitutions shall be made on a case-by-case basis when supported by a signed statement from a medical doctor or recognized medical authority, or in the case of a request for a milk substitution, by a medical authority or a parent. There will be no additional charge to the student for such substitutions.
13. Provide access, with or without notice, to all of the Vendor's facilities for purposes of inspection and audit.
14. Utilize USDA Foods to the fullest extent based on the needs of the SFA and apply commodity credits, DOD Fresh Credits and/or any other resulting discounts to monthly invoices.

C. The SFA Agrees to:

1. Request by email no later than **1 day**, an accurate number of meals to be delivered to the SFA each day. Notify the Vendor of necessary increases/decreases in the number of meals ordered within **24** hours of the scheduled delivery time. Errors in meal orders shall be the responsibility of the SFA making the error.
2. Ensure that a SFA representative is available at each site, at the specified time on each specified day to receive, inspect, and sign for the requested number of meals. This individual will verify the temperature, quality, and quantity of each meal delivered to the SFA. The SFA assures the Vendor that this individual will be trained and knowledgeable in the recordkeeping and meal requirements of the NSLP/SBP, and with local health and safety codes. Provide personnel to serve meals, clean the serving and eating areas, and assemble transport carts and auxiliary items for pick up by the Vendor (if applicable) no later than **each day**.
3. Notify the Vendor within **5** days of receipt of the next month's proposed cycle menu of any changes, additions, or deletions.
4. Provide the Vendor with information on how to access or a copy of the federal NSLP/SBP meal pattern requirements, the USDA Food Buying Guide; and all other technical assistance materials pertaining to the food service requirements of the NSLP/SBP. The SFA will, within 24 hours of receipt from CDE, advise the Vendor of any changes in the food service requirements.
5. Pay the Vendor within 60 days the full amount as presented on the monthly itemized invoice. Notify the Vendor within 5 business days of receipt of any discrepancy in the invoice. Pay the Vendor for all meals **delivered to** SFA in accordance with the agreement. Neither CDE nor USDA assumes any liability for payment of the difference between the number of meals prepared, delivered and the number of meals served by the SFA that are ineligible for reimbursement.
6. Retain control of the quality, extent, and general nature of the food service operation; and establish all program and non-program meal and a la carte prices.
7. Be responsible for loss or damage to equipment owned by the Vendor while in the possession of the SFA.
8. Submit a signed copy of the annual renewal amendment to the CDE prior to approval of the SFA online contract for participation in NSLP.

D. Termination

1. **Mutual Agreement Termination:** With mutual agreement of both parties to this Agreement, upon receipt and acceptance of not less than sixty (60) days of written notice, this Agreement may be terminated on an agreed upon date before the end of the agreement period without penalty to either party.
2. **Non-Performance of Agreement and Termination:**
 - a. Except as may be otherwise provided by this Agreement, this Agreement may be terminated in whole or in part by either party in the event of failure by the other party to fulfill its obligations under this

Agreement through no fault of the terminating party.

- b. The SFA may terminate this Agreement immediately upon written notice to Vendor if the Vendor becomes the subject of a proceeding under state or federal law for the relief of debtors or if an assignment is made for the benefit of creditors, or if Vendor loses its license or other ability to provide the required products and services, or if Vendor takes any action that violates any applicable laws (including, but not limited to, state and federal law governing the NSLP/SBP).
 - c. Any agreement termination resulting from any cause other than a Force Majeure event or termination for non-appropriations will be deemed valid reason for not considering any future proposal or bid from the defaulting Vendor.
3. **Termination for Convenience:** The SFA may terminate this agreement prior to the expiration of the term, without cause and without penalty, upon sixty (60) days written notice to the Vendor.
 4. **Final Payments:** Upon any termination of this Agreement, the SFA will pay for all meals received up to the effective date of termination. The Vendor shall submit all required reports and other information.

E. Standard Terms and Conditions

1. **Terms and Conditions:** Vendor must be fully acquainted with terms and conditions relating to the performance of this Agreement. Failure or omission of Vendor to be familiar with existing conditions shall in no way relieve the Vendor of obligation with respect to this agreement.
2. **Not Debarred, Suspended, Proposed for Debarment, Declared Ineligible, or Voluntarily Excluded:** Vendor certifies that neither the company nor any of its principals has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or htLAPCM://www.epls.gov/ agency. Vendors should consult Executive Orders 12549 and 12689. For additional information, Vendor should check htLAPCM://www.epls.gov/, a public service site by General Services Administration (GSA) for the purpose of efficiently and conveniently disseminating information on parties that are excluded from receiving federal contracts, certain subcontracts, and certain federal financial and nonfinancial assistance and benefit. The Suspension and Debarment Certification, Attachment E, must be signed by an authorized person and attached to this Agreement.
3. **State and Federally Required Contractual Provisions:** Vendor must have obtained, and will continue to maintain during the entire term of this Agreement, all permits, approvals or licenses necessary for lawful performance of its obligations under this Agreement. In addition, Vendor is responsible to abide by all applicable federal and state laws and policies of CDE and state and local boards of education, as applicable, when providing services under this Agreement.
4. **Equal Employment Opportunity:** Vendor shall comply with E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
5. **Labor and Civil Rights Laws:** Vendor shall comply with applicable federal, state, and local laws and regulations pertaining to wages, hours, and conditions of employment. In connection with Vendor's performance of work under this Agreement, Vendor agrees not to discriminate against any employee(s) or applicant(s) for employment because of sex, age, race, color, religion, creed, sexual orientation, gender identity, national origin, or disability. Vendor shall also comply with applicable Civil Rights laws as amended including but not limited to Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-6, Civil Rights Compliance and Enforcement in School Nutrition Programs.
6. **Clean Air Act and Energy Policy and Conservation Act:** Vendor shall comply with Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), as applicable, as well as the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871, and any related state energy laws, as applicable. Vendor shall report all violations to the SFA and to the relevant federal or state agency as appropriate.
7. **Breach of this Agreement and Remedies:** If Vendor fails to comply with any of the terms and conditions of this Agreement; the SFA has the option to send Vendor a ten (10) business day Notice to Cure the defect or breach. During the ten-day Notice to Cure, the parties may meet and confer to discuss the resolution of the defect or breach.

If there is not a satisfactory resolution at the end of the ten-day Notice to Cure, the SFA has the option to immediately cancel all or any part of the order. Such cancellation shall not be deemed a waiver by SFA of any rights or remedies for any breach by Vendor. SFA expressly reserves all rights and remedies provided

by statute or common law in the event of such breach. Without limiting the foregoing, the SFA may, at its option, require Vendor to repair or replace, at Vendor's expense, any products or goods, which caused the breach.

The remedies of the SFA are cumulative, and additional to any/or other further remedies provided by law. No waiver of any breach shall constitute a waiver of any other breach.

8. **Indemnify and Hold Harmless:** Vendor shall indemnify, defend, and hold harmless the SFA, its directors, officers, employees, and agents from and against and all liability, damages, losses and expenses (including reasonable attorneys' fees and costs) which arise out of Vendor's negligence, breach or other performance of the Agreement, or violation of any law or right of a third party, or that of Vendors' employees, subcontractors, or agents. Vendor will comply with all laws relating to intellectual property, will not infringe on any third party's intellectual property rights, and will indemnify, defend, and hold harmless the SFA and its directors, officers, employees, and agents from and against any claims for infringement of any copyrights, patents, or other infringements of intellectual property rights related to its activities under this Agreement.
 - a. Vendor agrees to notify the SFA by certified mail return receipt request, or by overnight courier immediately upon knowledge of any claim, suit, action, or proceedings.
 - b. Such indemnification obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligations to indemnify, which would otherwise exist as to any party or person.
9. **Force Majeure:** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
10. **Waiver:** No claims or rights arising out of a breach of this Agreement can be discharged in whole or part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing and signed by the aggrieved party.
11. **Taxes:** The SFA has tax-exempt status.
12. **Buy American:** Vendor will comply with the Buy American requirement, which dictates that SFAs participating in the federal school meal programs are required to purchase domestic commodities and products for SFA meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the U.S. and a food product that is processed in the U.S. substantially (at least 51 percent) using agricultural commodities that are produced in the U.S. (7CFR210.21, 220.16).
13. **Food Laws:** Vendors shall operate in accordance with all applicable laws, ordinances, regulations and rules of federal, state, and local authorities, including but not necessarily restricted to a Hazard Analysis and Critical Control Point (HACCP) plan. SFA may inspect Vendor's facilities and vehicles.
14. **Food Recall:** Vendor shall comply with all federal, state, and local mandates regarding the identification and recall of foods from the commercial and consumer marketplace. Vendors shall have a process in place to effectively respond to a food recall; the process must include accurate and timely communications to the SFA and assurance that unsafe products are identified and removed from SFA sites in an expedient, effective, and efficient manner. Vendor shall maintain all paperwork required for immediate and proper notification of recalls for full and split cases.
15. **Biosecurity:** Vendor must have a written policy regarding biosecurity and the food supply, in accordance with the Bioterrorism Act 2002 under the U.S. Department of Health and Human Services, Food and Drug Administration and under the USDA, Food Safety and Inspection Service.
16. **Lobbying Certification:** The Vendor must sign the Lobbying Certification, Attachment F, which was attached as an addendum to this Agreement and which is incorporated and made a part of this Agreement. If applicable, the Vendor has also completed and submitted Standard Form-LLL, Disclosure of Lobbying Activities (Attachment G), or will complete and submit as required in accordance with its instructions included in Attachment G.
17. **Independent Price Determination Certification:** The Vendor must sign Independent Price Determination Certificate, Attachment D, which was attached as an addendum to the Agreement and which is incorporated herein by reference and made a part of this Agreement.
18. The Vendor shall comply with all other pertinent state and federal laws.
19. **Records:** Vendor and SFA shall retain all required records for a period of three (3) years after SFA makes final payment and all other pending matters are closed including any ongoing audits or the end of the fiscal year to which they pertain, whichever is greater. Upon request, make all accounts and records pertaining to the Agreement available to the certified public accountant hired by the SFA, representatives CDE, USDA,

and the Office of Inspector General (OIG) for audits or administrative reviews at a reasonable time and place. Surrender to the SFA, upon termination of the Agreement, all records pertaining to the operation of the food service, to include all production records, product invoices, claim documentation, financial reports, and procurement documentation. The records shall be in appropriate order, complete, and legible.

20. **Duty to Protect:** Vendors shall perform a criminal background check on any of the Vendors employees that will be working at the SFA and disclose results to the SFA.
21. **Insurance:** Vendors shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in California. A Certificate of Insurance of the Vendor's insurance coverage indicating these amounts must be submitted at the time of the award. Complete the information below based on the Vendor's Certificate of Insurance:
 - a. Comprehensive General Liability—includes coverage for:
 - 1) Premises—Operations
 - 2) Products—Completed Operations
 - 3) Contractual Insurance
 - 4) Broad Form Property Damage
 - 5) Independent Contractors
 - 6) Personal Injury—1,000,000 Combined Single Limit
 - b. Automobile Liability—1,000,000 Combined Single Unit
 - c. Workers' Compensation-Statutory; Employer's Liability—1,000,000
 - d. Excess Umbrella Liability—2,000,000 Combined Single Unit
 - e. The SFA shall be named as additional insured on General Liability, Automobile, and Excess Umbrella. The Vendor must provide a waiver of subrogation in favor of the SFA for General Liability, Automobile, Workers' Compensation, and Excess Umbrella.
 - f. The insurance company insuring the Vendor shall provide for notice to the SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.

F. General Assurances

1. **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of the parties.
2. **Sole Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.
3. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service, or confirmed facsimile, 48 hours after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid, if such notice is addressed to the party to be notified at such party's address or facsimile number as set forth below, or as subsequently modified by written notice.
4. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (1) such provision shall be excluded from this Agreement, (2) the balance of the Agreement shall be interpreted as if such provision were so excluded and (3) the balance of the Agreement shall be enforceable in accordance with its terms.
5. **Advice of Counsel.** Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement. CDE is not a party to any contractual relationship between a SFA and a Vendor. CDE is not obligated, liable, or responsible for any action or inaction taken by a SFA or Vendor based on this Agreement template. CDE's review of the Agreement is limited to assuring compliance with federal and state procurement requirements. CDE does not review or judge the fairness, advisability, efficiency, or fiscal implications of the Agreement.

**SCHOOL FOOD AUTHORITY / VENDOR
SIGNATURES**

Name of School Food Authority's Authorized Representative

Title

Signature of School Food Authority's Authorized Representative

Date Signed
Mo./Day/Yr.

□

Name of Vendor's Authorized Representative

Title

Signature of Vendor's Authorized Representative

Date Signed
Mo./Day/Yr.

□