

California Department of Education

Request for Proposal and Model Fixed-Price Contract

for

School Food Authorities
Procuring the Services of a
Food Service Management Company



Procurement Resources Unit
Nutrition Services Division
Systems Support Branch
February 2021

Notice of Request for Proposals

Food Service Management Company RFP 2021-002

Notice is hereby given that the Governing Board of the Los Gatos Union School District (hereinafter referred to as **SFA**) is requesting proposals for a Food Service Management Company (hereinafter referred to as **Respondent[s]**) to assist with the SFA's food service program.

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 Request for Proposal (RFP) documents are available by
Los Gatos Union School District Web site at www.lgusd.org

To request the RFP documents by e-mail, postal mail, or fax, please contact
Terese McNamee
e-mail tmcnamee@lgusd.org
Postal Mail 17010 Roberts Road, Los Gatos, CA 95032
fax 408-395-6481

The SFA will record and provide answers to any questions or requests for clarifying information about the RFP during the question and answer period.

The SFA will hold a **Mandatory Tour** of the SFA facilities on
04/28/2021 **1:30PM**
Location: 17010 Roberts Road, Los Gatos, CA, 95032 Los Gatos, CA, 95032
All potential Respondents must attend Via Zoom in order to submit a proposal

Respondents must submit written proposals in a sealed package labeled
"Proposal - Food Service Management Company 2021-001
Addressed to the SFA at
Los Gatos Union School District
17010 Roberts Road
Los Gatos, CA, 95032
Attn: Terese McNamee

The SFA will accept all proposals received on or before **05/14/2021 2:00PM**. The SFA will not accept proposals that are received after the deadline. The SFA will open proposals at **05/14/2021 2:01PM**.

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 of Education at its regularly scheduled meeting.

Los Gatos Union School District

REQUEST FOR PROPOSAL
Food Service Management Company
Cover Page

CONTACT INFORMATION

2021-001

by

Los Gatos Union School District
FOOD SERVICE PROGRAM

ADDRESS ALL PROPOSALS TO:

Terese McNamee
Chief Business Official

17010 Roberts Road, Los Gatos, CA, 95032
Los Gatos, CA, 95032

408-335-2022

tmcnamee@lgusd.org

408-395-6481

Request for Proposal

Table of Contents

INTRODUCTION/PURPOSE OF SOLICITATION	1
SCHEDULE OF EVENTS	3
GENERAL INSTRUCTIONS FOR RESPONDENTS	4
PROPOSAL REQUIREMENTS	8
EVALUATION OF PROPOSALS	11
ATTACHMENT A: ATTACHMENTS CHECKLIST	12
ATTACHMENT B: MANDATORY TOUR	13
ATTACHMENT C: MINIMUM QUALIFICATIONS	14
ATTACHMENT D: FSMC PROFESSIONAL STANDARDS	15
ATTACHMENT E: PROPOSAL QUESTIONNAIRE	16
ATTACHMENT F: RESPONDENT REFERENCES	17
ATTACHMENT G: AUTHORIZATION AGREEMENT	18
ATTACHMENT H: FEE PROPOSAL	19
ATTACHMENT I: CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS	20
ATTACHMENT J: CERTIFICATE OF INDEPENDENT PRICE DETERMINATION	24
ATTACHMENT K: 21 DAY CYCLE MENU	25
EXHIBIT 1: MODEL FIXED-PRICE CONTRACT	I

Introduction/Purpose of Solicitation

As part of LGUSD's commitment to optimal student health, we aim to provide our students with meals assembled from a wide variety of safe, fresh and minimally processed ingredients. The purpose of this Request for Proposal (RFP) is to enter into a fixed-price contract with a Food Service Management Company (FSMC) that will provide Los Gatos Union School District (hereinafter referred to as the school food authority [SFA]) with food service management assistance for their food service operation. The FSMC will provide services to the SFA as described in the Scope of Work in the Model Fixed-price Contract.

The SFA's food service goals are to provide nutritious, high-quality meals to students and participants in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP), to accommodate special diets where medically necessary, improve the nutritional quality of meals, and maintain a financially viable food service program. General food service goals are outlined below. Preference will be given to FSMCs that are able to commit to meeting the high quality food standards outlined in this RFP:

- Provide an appealing and nutritionally sound program for students that allows the program to be financially sustainable.
- Provide all fresh, home-style foods; no processed, fried, reheated or packaged product meals. Increase the amount and variety of safe, fresh and minimally processed ingredients in our students' diets and eliminate ultra-processed ingredients if possible.
 - Organic and locally sourced ingredients when possible.
 - All meat and dairy products are hormone free and antibiotic free when possible
- Operate in an environmentally sustainable manner; recycling and composting and using all green products in cleaning/operations.
- Stimulate both student and adult participation in the program by improving communication with students, staff, and the community and incorporating quarterly student and parent feedback into the meal program
- Increase participation at all levels of the food service program by improving meal quality, offering menu variations, meeting special dietary needs, incorporating parent feedback and improving planning and communication.
- Charge appropriate prices for students and adults participating in the food service program to support high quality ingredients and improves student and parent participation in the program
- Maintain student and staff morale at a high level

SFAs shall conduct all procurement transactions in a manner that provides maximum open and free competition consistent with Title 2, *Code of Federal Regulations* (2 CFR), Part 200.319(a)(1-7). The SFA must share with every Respondent all information necessary for submitting a competitive proposal. The release of this RFP, evaluation of Respondents, and award of a contract will use competitive bidding standards established in all applicable California state and federal statutes and regulations.

Outlined below are competitive bidding basic standards:

- The purpose of soliciting competitive proposals is to secure public objectives in the most effective manner and avoid the possibilities of graft, fraud, collusion, etc.
- The SFA released this RFP to benefit the SFA and not the Respondents.
- Fulfillment of RFP specifications is based on full and fair competition and acceptance by the SFA of the most responsive and responsible Respondent to the SFA's requirements, as determined by the SFA when evaluating proposals based on the criteria contained in the RFP.
- The RFP must provide a basis for full and fair competition among Respondents to a common standard, free of restrictions that tend to stifle competition.

The above four points are for illustrative purposes only, and do not include all California state and federal requirements to achieve competitive bidding.

To respond to this RFP, interested FSMCs must present evidence of experience, ability, and financial standing necessary to meet the requirements stated in this RFP. The SFA will measure this evidence by scoring the proposals, using a point system that will rank each proposal from highest to lowest, to determine which proposals they will consider for the award of a contract.

To be competitive in this solicitation, the Respondent must:

- Carefully read the entire RFP, attachments, exhibits, addenda, and SFA responses to questions before submitting a proposal
- Ask appropriate questions or request clarification before the deadline in the RFP
- Submit all required responses by the required deadlines
- Follow all instructions and requirements of the RFP thoroughly and appropriately

If a Respondent discovers any ambiguity, conflict, discrepancy, omission, or other errors in this RFP, the Respondent shall immediately notify the SFA of the error in writing and request clarification or a modification of the RFP. If the Respondent fails to notify the SFA of the error prior to the date for submission of proposals, and is awarded the contract, the Respondent shall not be entitled to additional compensation or time by reason of the error or its later correction.

Schedule of Events
for
RFP # 2021-001

• Board Meeting – RFP Approval	Thursday	04-15-2021
• Release of RFP	Friday	04-16-2021
• First Public Notice	Friday	04-16-2021
• Second Public Notice	Friday	04-23-2021
• Mandatory Tour* Via Zoom	Wed	04-28-2021 1:30pm
• Respondent Question Submission Deadline	Monday	05-03-2021
• SFA Provides Answers	Wed	05-05-2021
• Deadline for Submission of Sealed Proposal	Fri	05-14-2021 2:00pm
• Proposals Opened	Fri	05-14-2021 2:01pm
• Proposals Evaluated	Wed	05-21-2021
• Board Meeting – Proposal Approval	Tuesday	06-08-2021
• Anticipated Contract Award Date	Thursday	06-10-2021

The SFA will make every effort to adhere to the schedule. However, the SFA reserves the right to amend the schedule, as necessary, and will post a notice of said amendment at www.lgusd.org.

All interested Respondents must attend the Mandatory Tour. The SFA will reject proposals from Respondents that do not attend. (Attachment A)

General Instructions for Respondents

1. Prepare proposals simply and economically. Provide a straightforward concise description of the Respondent's capability to satisfy the SFA's requirements. Emphasis should be placed on completeness and clarity of content.
2. Submit proposals for the performance of all the services described within this RFP. The SFA will not consider any deviation from these specifications and will reject such proposals.
3. The SFA may reject a proposal if the proposal is conditional or incomplete, deemed nonresponsive, or if it contains any alterations of form or other irregularities of any kind. The SFA may reject any or all proposals or waive any immaterial deviation in a proposal. The SFA's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the Respondent from full compliance with all other requirements if awarded the contract.
4. Respondents are responsible for the costs of developing proposals and shall not charge the SFA for any preparation costs.
5. The SFA asks Respondents that do not intend to submit a proposal to notify the SFA in writing.
6. Respondents may modify their proposal after submission by withdrawing the original proposal and resubmitting a new proposal prior to the submission deadline. The SFA will not consider proposal modifications offered in any other manner, either oral or written.
7. The Respondent shall provide payment terms within their proposal.
8. The Respondent shall maintain records to support the SFA's Claim for Reimbursement and report claim information to the SFA promptly at the end of each month. Such records shall be made available to the SFA upon request and shall be retained in accordance with 7 *CFR*, Section 210.16(c)(1).
9. The Respondent shall secure State or local health certification for any facility outside the school in which it prepares meals. The Respondent shall maintain this certification for the duration of the contract.[7 *CFR* Section 210.16(a)[7]
10. The SFA participates in meal programs that require the use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially (51% or more by weight or volume) using agricultural commodities that are produced in the U.S. as provided in 7 *CFR* (d) and 220.16[d]).
11. The Respondent will document why a non-domestic food is being substituted for domestic foods. The documentation is intended to indicate if the alternative food is due to the cost of domestic being significantly higher than non-domestic foods and/or the domestic foods are not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality. The Respondent will provide documentation justifying their use of exceptions to the Buy American Provision.
12. The Respondent will provide documentation about the percentage of domestic product in any processed end product. If the percentage is less than 51% then the respondent will notify the SFA of the non-domesticity of the processed end product.

13. The Respondent will provide certification of domestic origin for products which do not have country of origin labels.
14. The Respondent will not, directly or indirectly restrict the sale or marketing of fluid milk at any time or in any place on school premises or at any school-sponsored event. [7 *CFR*, Section 210.21(e)]
15. The Respondent shall include a 28 Day Cycle menu. (7 *CFR*, Section 210.10) The menu will include breakfast, lunch, and snack items. The FSMC shall include ingredient lists and nutrition facts for all items in the menu.
16. The Respondent shall include meal pattern requirements for breakfast, as per 7 *CFR*, Section 220.8.
17. The Respondent must credit the recipient agency for the value of all donated foods received for use in the recipient agency's meal service in the school year or fiscal year (including both entitlement and bonus foods), and including the value of donated foods contained in processed end products. [7 *CFR*, Section 250.51(a)]
18. The Respondent will provide the method and frequency by which the crediting will occur and document that the value of all donated foods will be credited. [7 *CFR*, Section 250.51(b)]
19. The Respondent will provide the method of determining the donated food values to be used in crediting. [7 *CFR*, Section 250.51(c)]
20. The Respondent shall agree to penalties for nonperformance. [7 *CFR*, Section 210.16(b)(1)]
21. Small Businesses and Minority Business - (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section. (Title 2, *Code of Federal Regulations*, Section 200.321(a)(b)(1-6))
22. Respondents may withdraw their proposal by submitting a written withdrawal request to the SFA, signed by the Respondent or their authorized agent, through the contact person named in the "Contact Information" provided on page iv of this RFP. Thereafter, a Respondent may submit a new proposal prior to the proposal submission deadline. Respondents may not withdraw their proposal without cause after the proposal submission deadline.

23. The SFA may modify the RFP prior to the date given for submission of proposals by posting an addendum on www.lgusd.org. The SFA will notify Respondents so they can obtain any addenda from the SFA's Web site, or request it by e-mail, postal mail, or fax.
24. The SFA reserves the right to reject all proposals for reasonable cause. If the costs of all proposals are excessive, the SFA is not required to award a contract.
25. The SFA will not consider more than one proposal from an individual, firm, partnership, corporation, or association under the same or different names. Reasonable grounds for believing that any Respondent has submitted more than one proposal for work contemplated herein will cause the SFA to reject all proposals submitted by the Respondent. If there is reason to believe that collusion exists among the Respondents, the SFA will not consider any of the participants of such collusion in this or future solicitations.
26. The SFA will not consider a joint proposal submitted by two or more entities.
27. Additional charges for regular or express delivery, drayage, parcel post, packing, cartage, insurance, license fees, permits, or for any other purpose shall be included (and separately identified) in the proposal.
28. All proposals shall include the forms provided as attachments to this RFP. Respondents may copy these forms. A proposal is considered responsive if it follows the required format, includes all attachments, and meets all deadlines and other requirements outlined in this RFP.
29. The SFA shall not accept proposals after the submission deadline specified in the RFP and shall return the unopened proposals to the respective Respondents. The SFA will not consider late proposals under any circumstances.
30. Respondents are responsible for examining the entire RFP package, seeking clarification for any item or requirement that may not be clear to them, and checking all responses in their proposal for accuracy before submitting it.
31. Respondents may submit their questions regarding the information presented in this RFP to Terese McNamee in writing by postal mail at 17010 Roberts Road, Los Gatos, CA 95032, e-mail at tmcnamee@lgusd.org, or fax at 408-395-6481, no later than May 3, 2021. 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.
32. SFA representatives reserve the right to inspect a Respondent's other food service operations prior to any award of a contract.
33. The SFA reserves the right to negotiate the final terms and conditions of the contract, which may differ from those contained in the proposal, provided the SFA considers such negotiation to be in its best interest. Any change in the terms and conditions must not create a material change, which is any alteration or modification to the original terms stated in the RFP that would have resulted in different proposals from all respondents. A material change will require the SFA to rebid the contract.

34. Interested Respondents are required to inspect the SFA's premises prior to submitting a proposal in order to determine all requirements associated with the proposed contract. The inspection of premises will occur during the Mandatory Tour.
35. Respondents shall submit one paper copy and one copy in digital format (e.g., CD, DVD, flash drive, etc.).
- The paper copy must contain the original signature of the individual(s) authorized to bind the Respondent contractually and be labeled "Master Copy."
 - 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.
 - 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—Food Service Management Company

FSMC Name

2021-002

Food Service Management Company Proposal

Los Gatos Union School District

Terese McNamee

17010 Roberts Road, Los Gatos, CA 95032

Proposal Requirements

To be eligible for evaluation, a proposal must adhere strictly to the format set forth below; failure to do so may result in disqualification. Respondents must complete, label, and separate each section, and number all pages. The content and sequence of the proposal will be as follows:

Section 1 - Administrative Requirements

A. Cover Letter

Only the individual(s) authorized to bind the Respondent contractually may sign the cover letter, which shall be a part of the proposal package. If the cover letter is unsigned, the SFA will reject the proposal. The SFA may reject the proposal if the Respondent fails to include the following required information:

- Name and address of responding company
- Organizational structure of the responding company (e.g., corporation, partnership, etc.)
- Respondent's Federal Employee Identification Number and Corporate Identification Number, if applicable
- Name, title phone number, fax number, and e-mail address of the representative who will be designated as the primary liaison to the SFA
- Name, title, phone number, and e-mail address of the representative(s) authorized to bind the Respondent in a contract if different from the primary liaison
- A statement expressing the Respondent's willingness to perform the services described in this RFP
- A statement expressing the Respondent's ability to perform the services required in the Scope of Work, including availability of staff and other required resources to meet all deliverables as described in this RFP
- A statement regarding the Respondent's proprietary information; if applicable, the Respondent must clearly mark in the upper right hand corner those pages to be considered proprietary (**Note:** the Respondent cannot consider the entire proposal to be proprietary)
- The following certification:

By signing this cover letter, I (we) certify that the information contained in this proposal is accurate and that all attachments required to be submitted as part of the proposal are certified to be true and binding upon our company.

B. Table of Contents

Immediately following the cover letter, include a comprehensive Table of Contents that lists all submitted proposal sections, subsections, attachments, and materials.

Section 2 – Required Attachments

A. Attachment Checklist

The Respondent shall include all documents identified in the Attachments Checklist (Attachment A). The SFA may reject proposals that do not include the proper required attachments.

B. Mandatory Tour

It is optional for the SFA to hold a mandatory tour. If the SFA holds a Mandatory Tour, the tour will include an online tour via Zoom. The tour schedule includes both an elementary and middle school site. Prospective Respondents may not contact any sites or employees.

C. Minimum Qualifications

The SFA will only consider Respondents that **meet all minimum qualifications** (as listed on Attachment C).

D. FSMC Professional Standards

Establishes minimum professional standards for school nutrition personnel who manage and operate the National School Lunch and School Breakfast Programs (as listed on Attachment D).

E. Proposal Questionnaire

The Proposal Questionnaire (Attachment E) is intended to provide the SFA with specific information concerning the Respondent's capability to provide services as described in this RFP. Respondents should limit their responses to the number of pages noted in the questionnaire and answer each question in the same order.

F. Respondent References

Respondents must provide three references on the Respondent References form (Attachment F). The SFA reserves the right to contact any of the references listed, and retains the right to conduct reference checks with individuals and entities beyond those listed.

G. Authorization Agreement

The Respondent or their authorized representative must sign the Authorization Agreement (Attachment G) and return it with the proposal package.

H. Fee Proposal

The Respondent must complete the Fee Proposal (Attachment H) and return it with the proposal package.

I. Certifications

The Respondent must complete the certifications (Attachments I) and return them with the proposal package.

J. Certificate of Price Determination

The Respondent must complete the certifications (Attachments J) and return them with the proposal package.

K. 28 Day Cycle Menu

The respondent must submit a 28 Day Cycle menu with the proposal package. The menu will meet the specifications outlined in Attachment K

Evaluation of Proposals

Proposals will be opened on or after the date and time specified in the Schedule of Events. During the evaluation 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/DOCUMENT REQUIREMENT	MAXIMUM POINTS
Healthy Food Standards	FSMC must be able to meet all healthy food standards outlined in Attachment K.	Demonstration of ability to meet minimum requirements .	25
Minimally processed ingredients	FSMC must provide ingredient list for all menu items.	Priority will be given to those vendors meeting higher percentages of minimally processed ingredients in a higher percentage of meals	25
Meal Order Management	FSMC shall provide an online meal preordering system including all software and hardware necessary. This cost will be included in the cost of the meal. Meal ordering system will provide accounting information to allow us to submit to for reimbursement to CNIPS	Sample menu ordering process included in response. Priority given to ordering system that is easy for parents to use and successfully order for meals on the same day and across different schools.	10
Vended Meal Capabilities	FSMC demonstrates experience in providing vended meals, has appropriate transportation plan to maintain food temperature	Transportation plan, equipment inventory, Plan for delayed or missing meals.	5
Understanding of the SFA's food service program and its service requirements,	Respondent demonstrates a complete understanding of the SFA's food service program and its service requirements, as described in the RFP and the Scope of Work, and can perform those services to the SFA's satisfaction	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 and can	15

		perform those services to the SFA's satisfaction.	
Experience with School Breakfast & National School Lunch Programs.	A minimum of 5 years in schools, specifically National School Lunch and Breakfast Program	Documentation of experience as outlined in company history. If Vendor does not meet minimum, provide adequate documentation to show how they are able to meet the National School Lunch program requirements.	5
References	FSMC must provide at least three customer references.	Documentation of all K-12 organizations vendor has had contracts with in the past five years with contact information. Identify contracts lost over the past five years	5
The financial stability of the Respondent.		The financial stability of the Respondent.	5
Taste Test, Quality and Variety of meal selections	FSMC demonstrates experience in producing a variety of nutritious, good-tasting, foods appealing to both students and parents. Menu should have multiple options to order daily.	Qualified vendors will be invited to provide examples of breakfast and lunch offerings to be evaluated by the scoring committee and student evaluators. Minimizes the reliance on ala carte items. Priority will be given to those that can balance quality with variety.	25
Cost	FSMC demonstrates appropriate cost for high quality ingredients and appetizing menu selections. Cost must include compostable containers and serving utensils	Price per meal (breakfast, lunch) clearly outlined in Attachment H	30
TOTAL POINTS		TOTAL POINTS	150

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.

Attachment A: Attachments Checklist

Respondent Company Name

Please complete this checklist to confirm that the items listed below have been included in your proposal. Place a checkmark or "x" next to each item submitted to the SFA. For your proposal to be considered, all required attachments must be returned, including this checklist. Submit one copy of your proposal in a sealed package.

Attachment	Attachment Name
_____ A	Attachments Checklist
_____ B	Mandatory Tour (optional)
_____ C	Minimum Qualifications
_____ D	FSMC Professional Standards
_____ E	Proposal Questionnaire
_____ F	Respondent References
_____ G	Authorization Agreement
_____ H	Fee Proposal
_____ I	Certifications Regarding Lobbying Activities, Debarment, Suspension and Other Responsibility Matters
_____ J	Certificate of Independent Price Determination
_____ K	28 Day Cycle Menu (Include)

Attachment B: Mandatory Tour

The Mandatory Tour will include an escorted tour.

- The tour schedule includes the sites listed below.
- Prospective Respondents may not contact any sites or employees outside of the scheduled visit.
- The SFA requests that Respondents do not take pictures during the tour as the SFA has not obtained releases from parents, students, and employees.

TOUR SCHEDULE: ALL TOURS WILL BE DONE VIA ZOOM
PLEASE EMAIL TMCNAMEE@LGUSD.ORG TO RECEIVE ZOOM INVITE

Tour begins at *1:30pm*
Site: R.J. Fisher Middle School
19195 Fisher Ave., Los Gatos, CA 95032

Elementary Site Tour begins at 2:00pm
Site: Daves Avenue Elementary School
17770 Daves Avenue, Monte Sereno, CA 95030

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 July 1, 2021, both the Respondent's company and its key personnel meet all of the following minimum qualifications:

1. The Respondent has at least at least five (5) years of experience with food service programs.

Yes _____ No _____

2. The Respondent has the resources and ability to provide over 75,000 meals per fiscal year.

Yes _____ No _____

3. The Respondent has knowledge and experience with **National School Lunch Program (NSLP)**, the **School Breakfast Program (SBP)**, the **Pilot Project for the Procurement of Fresh Fruit & Vegetable**.

Yes _____ No _____

4. The Respondent has professional references that demonstrate and evidence the ability to perform the required services.

Yes _____ No _____

5. The Respondent is licensed to do business in the state of California.

Yes _____ No _____

Attachment D: FSMC Professional Standards

FSMC Employees Professional Standards

Federal Register Vol. 80, No. 40, dated March 2, 2015, referred to as the “Final Rule,” establishes minimum professional standards for school nutrition personnel who manage and operate the National School Lunch and School Breakfast Programs. In the Final Rule, the following definitions are established:

1. **School Nutrition Program Supervisor.** The school nutrition program supervisor is any individual directly responsible for the management of the day-to-day operation of school food service for all participating schools under the jurisdiction of the school food authority.
2. **School Nutrition Program Manager.** The school nutrition manager is any individual directly responsible for the management of the day-to-day operation of school food service for a participating school(s).
3. **School Nutrition Program Staff.** School nutrition program staff are those individuals, without managerial responsibilities, involved in day-to-day operations of school food service for a participating school(s).

The Final Rule establishes that these definitions apply to the function/role rather than the specific title within the school food service structure, and that the definitions apply whether or not the school food service is operated by an FSMC. Therefore, as of the effective date of this contract, the minimum professional standards established by the Final Rule, and described therein, shall apply to FSMC staff performing any of the duties described above.

The FSMC shall only place staff for work in the school district that meet the minimum professional standards outlined in 7 *CFR*, Section 210.30, which can be viewed at the following Web page: http://www.fns.usda.gov/sites/default/files/cn/profstandards_flyer.pdf.

- The SFA shall ensure that all staff the FSMC proposes for placement meet the minimum professional standards.
- The FSMC shall ensure their employees take the required annual training as outlined in the professional standards and provide certification of such training to the SFA. In addition, the FSMC shall facilitate the annual training of SFA staff as required. FSMC and SFA staff are expected to be properly trained on all aspects of the Program requirements prior to beginning service.
- The FSMC shall provide the SFA with a list of proposed employees and evidence that they meet the professional standards.

Attachment E: 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 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 and parents 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.

Attachment F: Respondent References

List three references to which the Respondent has provided food service management services within the past 3 year(s).

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 Number
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 Number
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 Number
Brief Description of Services Provided		
Dates of Service		

Attachment G: Authorization Agreement

Request for Proposal for Food Service Management Company
RFP Number: 2021-002

We, [Enter FSMC Name], by our signature on this document certify the following:

1. That we will operate in accordance with all applicable California state and federal laws, regulations, and statutes.
2. That the terms, conditions, warranties, and representations made within this RFP and our proposal shall be binding upon us and shall be considered a part of the contract as if incorporated therein.
3. That the proposal submitted is a firm and irrevocable offer good for one year.
4. That we have carefully examined all terms and conditions set forth in the Model Fixed-price Contract issued by Los Gatos Union School District.
5. That we have made examinations and verifications, and are fully conversant with all conditions under which services are to be performed for Los Gatos Union School District.
6. That negligence in the preparation or presentation of, errors in, or omissions from proposals shall not relieve us from fulfillment of any and all obligations and requirements in the resulting contract.

FSMC Name: _____

Address: _____

City: _____ State: _____ Zip: _____

E-mail Address: _____

Web Site Address: _____

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Signature of Authorized Representative

Date Signed: _____

Attachment H: Fee Proposal

All costs are based on average daily participation of 150 Breakfasts, 375 Lunch and Equivalent number of meals served on 180 number of school days.

COST BREAKDOWN			
Respondent Instructions <input type="checkbox"/> Provide a breakdown of all costs included in the fixed price, including personnel costs. <input type="checkbox"/> Provide the cost per meal; base all food costs on the attached 28-day cycle menu . <input type="checkbox"/> Clearly identify all costs			
Item #	Description <i>(Include All Goods and Services included in the Fixed Price)</i>		Annual Cost
1.			\$
2.			\$
3.			\$
4.			\$
Sub Total			\$
	Personnel Costs		Annual Cost
5.	Management Fee Per Meal	\$	
6.	Consultant Fee Per Meal	\$	
Sub Total			\$
GRAND TOTAL			\$

COST PER MEAL			
Respondent Instructions: <input type="checkbox"/> Provide the cost per meal; base all food costs on the attached 28-day cycle menu . <input type="checkbox"/> Prices must not include values for USDA Foods and must include all meal programs applicable.			
1. LINE ITEM	2. UNITS	3. RATE	4. TOTAL
Breakfast	280/Day * 180	\$	\$
Lunch	120/Day * 180	\$	\$
Snacks	Snacks will be included with meals only. Cost of snacks will be considered as an optional component to our meals and must have a separate per meal cost.	\$	\$
TOTAL		\$	\$

Attachment I: Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 7 *CFR*, Part 3018, "New Restrictions on Lobbying," 7 *CFR*, Part 3017, "Government-wide Debarment and Suspension (Nonprocurement)," and 7 *CFR*, Part 3021, "Government-wide Requirements for Drug-Free Workplace (Grants)." The certification shall be treated as a material representation of fact upon which reliance will be placed when the SFA determines to award the covered transaction, grant, or cooperative agreement.

LOBBYING

As required by Title 31, *U.S. Code* (31 *U.S.C.*) Section 1352, and implemented at 7 *CFR*, Part 3018, for a person entering into a grant or cooperative agreement over \$100,000, as defined at 7 *CFR*, Section 3018.105, the applicant certifies that:

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with these instructions; and
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

Disclosure of Lobbying Activities and Instructions

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352. ¹Approved by OMB No. 0348-0046
(See next page for public burden disclosure)

1. Type of Federal Action: a. Contract b. Grant c. Cooperative agreement d. Loan e. Loan guarantee f. Loan insurance	2. Status of Federal Action: a. Bid/Offer/Application b. Initial Award c. Post-Award	3. Report Type: a. Initial filing b. Material change For Material Change Only: Year _____ Quarter _____ Date of last report _____		
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee <input type="checkbox"/> Tier, if known Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:		
6. Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable:		
8. Federal Action Number, if known:		9. Award Amount, if known: \$		
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)		
11. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: Print Name: Title: <table style="width: 100%;"> <tr> <td style="width: 70%;">Telephone No: ()</td> <td style="width: 30%;">Date:</td> </tr> </table>	Telephone No: ()	Date:
Telephone No: ()	Date:			
FEDERAL USE ONLY:		<i>Authorized for Local Reproduction</i> Standard Form (SF—LLL (Rev. 7-97)		

INSTRUCTIONS
Disclosure of Lobbying Activities (SF-LLL)

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation or receipt of a covered federal action, or a material change to a previous filing, pursuant to 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget (OMB) for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, U.S. Department of Agriculture, Food and Nutrition Service.
7. Enter the federal program name or description for the covered federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in item 1 (e.g., RFP number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter last name, first name, and middle initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and phone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 7 *CFR*, Section 3017.510, for prospective participants in primary covered transactions, as defined at 7 *CFR* Section 3017.200:

- A. The contractor certifies that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.
- B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

Contractor/Company Name

Award Number, Contract Number, or Project Name

Name(s) and Title(s) of Authorized Representatives

Signature(s)

Date

Attachment J: Certificate of Independent Price Determination

Both the SFA and FSMC shall execute this Certificate of Independent Price Determination.

Name of FSMC

Name of SFA

- A. By submission of this offer, the offeror (FSMC) certifies and, in the case of a joint offer, each party thereto certifies as to its own organization that in connection with this procurement:
1. The prices in this offer have been arrived at independently—without consultation, communication, or agreement—for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;
 2. Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening the case of an advertised procurement, directly or indirectly to any other offeror or to any competitor; and
 3. No attempt has been made or will be made by the offeror to induce any person or firm to submit, or not to submit, an offer for the purpose of restricting competition.
- B. Each person signing this offer on behalf of the offeror certifies that:
1. He or she is the person in the offeror's organization responsible within the organization for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above; or
 2. He or she is not the person in the offeror's organization responsible within the organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above and as their agent does hereby so certify; and he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above.

To the best of my knowledge, this vendor and its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows (provide detail):

Signature of FSMC's
Authorized Representative

Title

Date

In accepting this offer, the SFA certifies that no representative of the SFA has taken any action that may have jeopardized the independence of the offer referred to above.

Signature of SFA's
Authorized Representative

Title

Date

Note: Accepting a Respondent's offer does not constitute award of the contract.

Attachment K: 28 Day Cycle Menu

Please attach to your Proposal

INSTRUCTIONS: All Respondents shall attach a 28-Day Menu Cycle with their proposal submission. In addition, respondents shall attach the complete list of ingredients and the completed chart below showing the percentage of meals per week or ingredients per meal that will meet these standards.

SFA Healthy Food Standards

In our commitment to providing students with the nutritious and healthy meals, we have set higher meal standards and expect the selected FSMC to meet these standards listed below. FSMC must be able to document compliance for these standards. FSMC will continue to meet these SFA standards regardless of the current changes or waivers available to the USDA Standards. FSMC Will provide the updated standards they are meeting as part of the RFP process.

USDA (min per day) Cups/oz/grams per week	USDA K-8 Standards	SFA Standards (We will give priority to natural or less refined ingredients. Must identify synthetic ingredients) Do not include highly refined	Number of meals per week or percentage of ingredients in each meal to meet this standard (Please insert your commitment level for each component on the sheet below and submit with your response.)
Fruits 2.5 (0.5)	1) Fresh, frozen without added sugar, canned in juice/light syrup, or dried fruit options 2) No more than half the offerings may be in the form of juice 3) 100% juice only 4) 1/4 cup dried fruit = 1/2 cup fruit 5) Fruit/vegetable separated into two components	1) Fruits must be served at every meal 2) Fresh or DIVIDE UP % frozen (no additives) 3) No canned fruits allowed 4) No juice can be served at lunch 5) Daily serving reflects variety over the week	Please describe how fruits will be included in the meals and include the % of fresh versus frozen or canned foods. Juice cannot be the only fruit serving option for any meal. Preference will be given to those vendors providing a daily wide variety of 100% fresh seasonal fruit items.

Vegetables 3.75 (0.75)	Daily serving that reflects variety over the week Fresh, frozen, and canned products Dark green 0.5 Red/Orange 0.75 Starch 0.5 Other 0.5 Additional Vegetable 1.0 Legumes 0.5 (can also be credited as meat alternative)	Vegetables must be served at every lunch Fresh or frozen (no additives) A daily vegetarian entrée option must be provided if the entree is not vegetarian	Include what percentage of meals include vegetable servings in the main meal component. Include variety and percentage of fresh versus frozen or canned. Preference will be given to those vendors providing a daily wide variety of 100% fresh seasonal vegetable items.
USDA (min per day) Cups/oz/grams per week	USDA K-8 Standards	SFA Standards	
Grain 8-9 oz (1) K-5 8-10 oz (1) 6-8	Schools must offer the daily and weekly serving ranges of grains (min and Max) All grains offered must be whole grain- rich (SY2014-15) "Whole grain-rich" must be at least 25 percent whole grains Only 2 creditable grain-based desserts allowed a week. Grains should meet at least one of the following: Whole grains pre-serving must be ≥ 8g (IOM) Must have FDA's whole grain health claim on packaging Whole grain must be first in product ingredient list	All grains served must meet both of the following: Whole grains per serving must be ≥ 8gm (IOM)	District is focused on providing a greater variety of whole grain products particularly in breads and pastas. Other grain products that are not whole grain must be enriched and clearly identified in the ingredients list.

Meats/Meat Alternates 8-10 oz (1) K-5 9-10 oz (1) 6-8	A variety of meat/meat alternates is encouraged Tofu and soy yogurt will be allowable as meat alternate	No mechanically separated meat or poultry No animal by-products Serving of processed meats with additives and fillers (e.g. sausage, meat patties) must be limited to 2 times per week	Identify ingredients RAISED WITHOUT ANTIBIOTICS AND ADDED HORMONES and those raised with antibiotics and added hormones
Fluid Milk 5 cups (1)			
Fat Free	Allowable options Fat free (unflavored/flavored) Low-fat (unflavored) Fat-free or low-fat (lactose-reduced/lactose-free) Must offer at least two choices	All milk served must be rBST and rBGH free (artificial growth hormone free) as declared by manufacturer Flavored milk may only be offered one meal per day	

USDA (min per day) Cups/oz/grams per week	USDA K-8 Standards	SFA Standards	
Saturated Fat	< 10 percent of total calories No total fat standard		
Trans Fat 0g	0 grams = less than 0.5g serving Naturally occurring trans fat excluded (e.g. beef, lamb, dairy products)	No artificial trans fats or hydrogenated oils in ingredient lists	
Calories	550-650 (min-max kcal) K-5 600-700 6-8		

Sodium	Current standard: ≤ 1230 mg 22) 2022-23 standard: ≤ 640 mg		
Sugar	No standard	Products with natural sweeteners are encouraged The ingredient list must identify any artificial sweeteners used	
Cooking Method	No standard	No deep frying Fresh, less processed food preparation methods are encouraged	
Water	No standard	WATER BOTTLES WILL NOT BE SOLD Provision of water is not required	
Competitive Foods	No standard	No competitive foods can be sold in the cafeteria or on school premises . Any additional foods must be a side item to meal and must be identified on the menu and ingredients list.	District intends on adding a daily chef special to the menu and cooking the item on site. FSMC will offer support to purchase ingredients if available. Chef special Meals will use the common ordering system
Food Procurement	No standard	incorporating local ingredients is encouraged. Provide the percent of the food cost will be used for local food products (within 100 miles if possible)	

Model Fixed-Price Contract
For
Food Service Management Company

Los Gatos Union School District
FOOD SERVICE PROGRAM

Los Gatos Union School District
17010 Roberts Road
Los Gatos, CA 95032

408-335-2022

408-395-6481

Model Fixed-Price Contract

Table of Contents

CONTRACT SUMMARY	1
MODEL FIXED-PRICE CONTRACT	2
I. Introduction	2
II. General Terms and Conditions	2
III. Relationship of the Parties	9
IV. Food Service Program	10
V. U.S. Department of Agriculture Foods	12
VI. Meal Responsibilities	15
VII. Food Service Management Company Employees	15
VIII. Books and Records	16
IX. Monitoring and Compliance	17
X. Equipment, Facilities, Inventory, and Storage	18
XI. Certifications	19
XII. Insurance	20
XIII. Termination	21
SCOPE OF WORK	22
SCHEDULE OF FEES	27

Contract Summary

FOOD SERVICES CONTRACT		CONTRACT NUMBER	
		REGISTRATION NUMBER	
1 This contract is entered into between the school food authority and the food service management company named below:			
SCHOOL FOOD AUTHORITY NAME			
FOOD SERVICE MANAGEMENT COMPANY NAME			
2 The term of this Contract is for one year, commencing on		July 1, 2021 and ending on June 30, 2022	
3 The maximum dollar amount of this Contract is equal to the fixed price per meal multiplied by the number of meals served		\$	
4 The parties herein agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Contract.			
Request for Proposal Released		Enter page(s)	
Contractor Proposal Received		Enter page(s)	
Attached Terms and Conditions		Enter page(s)	
Exhibit A: Scope of Work		Enter page(s)	
Exhibit B: Schedule of Fees		Enter page(s)	
IN WITNESS WHEREOF, the parties hereto have executed this Contract.			
Food Service Management Company		California Department of Education Use Only	
NAME of FSMC (if other than an individual, state whether a corporation, partnership, etc.)			
BY (Authorized Signature) 	DATE SIGNED (do not type)		
PRINTED NAME AND TITLE OF PERSON SIGNING			
ADDRESS			
SCHOOL FOOD AUTHORITY			
NAME of SFA			
BY (Authorized Signature) 	DATE SIGNED (do not type)		
PRINTED NAME AND TITLE OF PERSON SIGNING			
		<input type="checkbox"/> Exempt per:	

Model Fixed-Price Contract

I. Introduction

The Los Gatos Union School District, hereinafter referred to as the school food authority (SFA), enters into this Contract with [Food Service Management Company name], hereinafter referred to as the Food Service Management Company (FSMC) to provide food service management assistance for the SFA's food service program, hereinafter referred to as "Services." **During the term of this Contract, the FSMC will provide services to the SFA as described in the Scope of Work (Exhibit A) of this Contract.**

II. General Terms and Conditions

A. Term

The term of this contract is one year. The FSMC shall commence providing Services under the Contract on July 1, 2021 and continue through June 30, 2022. After careful consideration, the SFA may annually renew this Contract for four additional one year periods upon agreement between both parties. Execution of all contracts and amendments is contingent on approval by the California Department of Education (CDE). The SFA may cancel this Contract upon notification from the CDE that it or any part of the bidding process has been determined noncompliant with state and federal laws and regulations (Title 7, *Code of Federal Regulations* [7 *CFR*], Section 210.16[d]).

B. Designated Contract Liaisons

SFA Liaison for Services		FSMC Liaison for Services	
Name:		Name:	
Title:		Title:	
Phone:	Cell Phone:	Phone:	Cell Phone:
Fax:	E-mail:	Fax:	E-mail:

Respondents shall serve or deliver by postal mail all legal notices to:

SFA	FSMC
Name:	Name:
Title:	Title:
Address:	Address:

C. Fees

1. Fixed-price Contracts

The SFA will pay the FSMC at a fixed rate per meal. The fixed rate per meal includes all fees and charges indicated in the Schedule of Fees (Exhibit B) of this Contract. The SFA must determine, and the FSMC shall credit the SFA for, the full value of U.S. Department of Agriculture (USDA) Foods. The FSMC's fixed-price invoice will be fully compliant with procurement requirements for the National School Lunch, School Breakfast, and Special Milk Programs, set forth in Title 7, *Code of Federal Regulations* (7 *CFR*), parts 210, 215, and 220, and the USDA Food and Nutrition Service (FNS) Final Rule issued Wednesday, October 31, 2007. The FSMC shall take discounts, rebates, and other credits into account when formulating their prices for this fixed-price contract (Title 2, *Code of Federal Regulations* [2 *CFR*], sections 200 & 400).

2. Payment Terms

The FSMC shall submit monthly invoices by 10th of the following month that reflect all activity for the previous calendar month. The FSMC must submit detailed cost documentation monthly to support all charges to the SFA. Charges and expenses are included in the Schedule of Fees (Exhibit B). All costs, charges, and expenses must be mutually agreeable to the SFA and the FSMC, and must be allowable costs consistent with the cost principles in 2 *CFR*, parts 200 or 400, as applicable. The SFA will pay invoices submitted by the FSMC within 30 calendar days of the invoice date. The SFA will pay invoices received by its accounting department by the invoice due date, if the invoices pass the SFA's audit (7 *CFR*, sections 210.14[a] 210.19[a], 210.21[c][3]). The SFA will notify the FSMC of invoices that do not pass audit, which the SFA will not pay until the invoices have passed audit, with no penalty accruing to the SFA (7 *CFR*, sections 210.19[a][1], 210.14[a], 210.21[f]).

3. Interest, Fines, Penalties, and Finance Charges

Interest, fines, penalties, and finance charges that may accrue under this contract are not allowable expenses to the nonprofit school food service (cafeteria fund). The SFA will not pay unallowable expenses from the SFA's cafeteria fund (2 *CFR*, Section 200.449).

4. Spoiled or Unwholesome Food

The SFA shall make no payment to the FSMC for food that, in the SFA's determination, is spoiled or unwholesome at the time of delivery, does not meet detailed food component specifications as developed by the SFA for the meal pattern, or does not otherwise meet the requirements of this Contract (7 *CFR*, Section 210.16[c][3]).

D. Contract Cost Adjustment

The renegotiation of price terms under this Contract is permitted only upon the occurrence of unpredictable, unexpected conditions beyond the control of both parties. If those conditions create a significant and material change in the financial assumptions upon which the price terms of this contract were based, then those price terms so affected may be renegotiated by both parties. Renegotiation of price terms under such conditions must be mutual and both parties must agree on any changes in price terms. Any adjustments so negotiated and agreed upon must accurately reflect the change in conditions. The occurrence of contingencies that are foreseeable and predictable, but not certain, should be calculated into the defined price terms, to the extent possible, with the goal of minimizing the need for renegotiation of price terms during the term of the Contract. Substantive changes of the Contract will require the SFA to rebid the Contract.

E. Availability of Funds

Every payment obligation of the SFA under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. The SFA may terminate this Contract at the end of the period for which funds are available if funds are not allocated and available for the continuance of this Contract. In the event the SFA exercises this provision, no liability shall accrue to the SFA and the SFA shall not be obligated or liable for any future payments or for any damages resulting from termination under this provision.

F. Timeliness

Time is of the essence in this Contract.

G. Approval

This Contract has no force or effect until it is signed by both parties and is approved by the CDE (7 *CFR*, Section 210.19 [a][5]).

H. Amendment

No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by both parties, and approved by the CDE. Any oral understanding or agreement not incorporated into the Contract in writing and approved by the CDE is not binding on either party (7 *CFR*, Section 210.19[a][5]).

I. Substantive Changes to Contract

Any change to this Contract that results in a material change or any proposed renewals of this Contract may, at the determination of the CDE, either void this Contract or require the SFA to rebid the Contract. Following are examples of substantive changes that could require the SFA to rebid the Contract (7 *CFR*, Section 200.3245 [b][5]):

- The addition of a program
- A major shift in responsibilities for FSMC/SFA staff

- A modification that changes the scope of the Contract or increases the price of the Contract by more than the applicable federal, state, or local small purchase threshold (2 *CFR*, Section 200.324 [B][4])

J. Subcontract/Assignment

No provision of this Contract shall be assigned or subcontracted without prior written approval of the SFA.

K. Written Commitments

Any written commitment by the FSMC relative to the services herein shall be binding upon the FSMC. Failure of the FSMC to fulfill any such commitment shall render the FSMC liable for damages due to the SFA. Such written commitments include, but are not limited to:

- Any warranty or representation made by the FSMC in any publication, drawing, or specifications accompanying or referred to in the proposal pertaining to the responsiveness of the proposal
- Any written notifications, affirmations, or representations made by the FSMC in, or during the course of, negotiations that are incorporated into a formal amendment to the proposal

L. Trade Secrets/Copyrights

The FSMC and SFA shall designate any information they consider confidential or proprietary—including recipes, surveys and studies, management guidelines, operational manuals, and similar documents—that the SFA and FSMC regularly use in the operation of their business or that they develop independently during the course of this Contract. Information so designated and identified shall be treated as confidential by the FSMC and the SFA, and the FSMC and the SFA shall exercise the same level of care in maintaining the confidences of the other party as they would employ in maintaining their own confidences, unless disclosure is otherwise required under the law. All such materials shall remain the exclusive property of the party that developed them and shall be returned to that party immediately upon termination of this Contract. Notwithstanding, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, the following for federal government purposes:

- The copyright in any work developed under a federal grant, subgrant, or contract under a grant or subgrant (7 *CFR*, Section 200.315)
- Any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with federal grant support (2 *CFR*, Section 200.315[B])

M. Severability

Should any provision(s) of this Contract be declared or found to be illegal, unenforceable, ineffective, and/or void, then each party shall be relieved of any obligations arising from such

provision(s). The balance of this Contract, if capable of performance, shall remain and continue in full force and effect.

N. Counterparts

This Contract may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

O. Silence/Absence/Omission

Any silence, absence, or omission from the Contract specifications concerning any point shall mean that only the best commercial practices are to prevail. Only those materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.

P. Indemnification

The FSMC shall indemnify and hold harmless the SFA, or any employee, director, agent, or Board Member of the SFA, from and against all claims, damages, losses, and expenses (including attorney's fees and court costs incurred to defend litigation), and decrees or judgments whatsoever arising from any and all injuries, including death or damages to or destruction of property resulting from the FSMC's acts or omissions, willful misconduct, negligence, or breach of the FSMC's obligations under this Contract by the FSMC, its agents, employees, or other persons under its supervision and direction.

The FSMC shall not be required to indemnify or hold harmless the SFA from any liability or damages arising from the SFA's sole acts or omissions.

Q. Penalties

For the breach of the Contract and associated benefits:

If the FSMC causes the breach, the FSMC assumes liability for any and all damages, including excess cost to the SFA in procuring similar services, and is liable for administrative, contractual, and legal remedies, as applicable.

R. Small and Minority Businesses - Prime Contractors and Subcontractors

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business

Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section. (2 *CFR*, Part 200.321[a][b][1-6])

S. The FSMC shall comply with the provisions referenced in Appendix II to 2 Part 200, which include but are not limited to:

- a) Equal Employment Opportunity (for contracts in excess of \$10,000)
- b) Davis Bacon Act (for construction contracts in excess of \$2,000)
- c) Rights to Inventions Made Under a Contract or Agreement (if applicable)
- d) Byrd Anti-Lobbying Amendment [31 U.S.C. 1352) (Appendix II to 2 *CFR*, Part 200 (for contracts worth \$100,000 or more]

T. Force Majeure

1. Neither party shall be liable to the other for delay in, or failure of, performance nor shall any such delay in, or failure of, performance constitute default if such delay or failure is caused by force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure may include, but is not restricted to, acts of God, the public enemy, acts of the state in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.
2. Force majeure does not include any of the following occurrences:
 - Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market
 - Late performance by a subcontractor, unless the delay arises out of a force majeure occurrence
 - Inability of either the FSMC or any of its subcontractors to acquire or maintain any required insurance, bonds, licenses, or permits
3. If either party is delayed at any time in the progress of work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as practicable and no later than the following work day or the commencement thereof, and shall specify the causes of such delay. Such notice shall be delivered by hand or sent by postal mail with a certified return receipt requested and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time for completion shall be extended by contract amendment, as long as the amended period does not violate 7 *CFR* Section 210.16(d).
4. Any delay or failure in performance by either party caused by force majeure shall not constitute default, nor give rise to any claim for damages or loss of anticipated profits.

U. Nondiscrimination

Both the SFA and FSMC agree that no child who participates in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), or Fresh Fruit and Vegetable Pilot program (FFVP) will be discriminated against on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income derived from any public assistance program or protected genetic information in employment or in any program or activity conducted or funded by the USDA. (Not all prohibited bases will apply to all programs and/or employment activities (2 *CFR*, Section 210.23[b]))

V. Compliance with the Law

The FSMC shall comply with all laws, ordinances, rules, and regulations of all applicable federal, state, county, and city governments, bureaus, and agencies regarding purchasing, sanitation, health, and safety for the food service operations and shall procure and maintain all necessary licenses and permits. The SFA shall cooperate, as necessary, in the FSMC's compliance efforts.

The FSMC shall comply with 2 *CFR*, Part 200, 7 *CFR*, parts 210 (NSLP), 220 (SBP), 225 (SFSP), 226 (CACFP), 245 (Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools) as applicable, 250 (Donation of Foods for Use in the United States, its Territories and Possessions and Areas Under its Jurisdiction, USDA FNS Instructions and policy, federal laws and regulations, California *Education Code (EC)*, and California laws and regulations, where applicable.

W. Choice of Law

This Contract shall be construed under the laws of the state of California, where applicable, without giving effect to the principles of conflict of laws. Any action or proceeding arising out of this Contract shall be heard in the appropriate courts in California.

X. Advice of Counsel

Each party acknowledges that, in executing this Contract, 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 Contract (California *Education Code [EC]*, Section 45103.5[b]).

III. Relationship of the Parties

- A.** The FSMC's relationship with the SFA will be that of an independent contractor and not that of an employee of or supervisor for the SFA. The FSMC will not be eligible for any employee benefits, nor will the SFA make deductions from payments made to the FSMC for taxes; all of which will be the FSMC's responsibility. The FSMC agrees to indemnify and hold the SFA harmless from any liability for, or assessment of, any such taxes imposed on the SFA by relevant taxing authorities. The FSMC will have no authority to enter into

contracts that bind the SFA or create obligations on the part of the SFA (*EC* Section 45103.5).

- B.** Where the SFA is a public school district or program operated by the county Office of Education, the FSMC, as an independent contractor, shall have no authority to supervise food service classified personnel operating the NSLP, SBP, or Afterschool Meal Supplements (AMS) under the NSLP (*EC* Section 45103.5).
- C.** All services to be performed by the FSMC will be as agreed between the FSMC and the SFA. The FSMC will be required to report to the SFA concerning the services performed under this Contract. The SFA shall determine the nature and frequency of these reports.
- D.** The SFA is the responsible authority, without recourse to USDA or CDE, for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature.

III. Buy American Requirements

- A.** The FSMC's relationship with the SFA will be that of an independent contractor and not that Food Service Management Company Responsibilities
 - 1. The Food Service Management Company (FSMC) must submit statements for all processed agricultural products to the SFA at the time of delivery for each processed agricultural product certifying that the food product was processed 100 percent domestically and that the percentage of domestic content in the food component of the processed food product is over 51 percent, by weight or volume (USDA Policy Memo SP 38-2017).
 - 2. The FSMC must notify the SFA in writing at least 10 days prior to delivering a nondomestic agricultural commodity or product and request prior approval for delivery of a nondomestic agricultural commodity or product. This written notification must list alternative domestic substitutes for the SFA to consider and provide an explanation for the following: a) Why the domestic product is not produced or manufactured in sufficient and reasonably available quantities of a satisfactory quality; and/or b) Why competitive bids reveal the cost of domestic product are significantly higher (10%) than the nondomestic product.
- B.** School Food Authority Responsibilities
 - 1. The SFA shall maintain documentation outlining the justification for supporting their use of an exception to the Buy American requirement prior to accepting nondomestic agricultural commodities or products. This documentation will be kept on file for the term of the contract plus any extensions and three additional school years thereafter. This will be made available during an onsite administrative review and an offsite procurement review.
 - 2. The SFA shall monitor the contract to ensure that the correct domestic food components contracted for are delivered as required by 2 CFR, Section 200.318(b) unless the FSMC has received prior approval from the SFA for nondomestic agricultural commodity or product.
 - 3. The SFA must ensure FSMC compliance with the Buy American Provision in accordance with their procurement procedures. These procedures, at a minimum, must include the requirement to include Buy American Provision language in solicitations and contracts as well as the process for requiring FSMCs to certify the domestic percentage of the agricultural food component of products.

IV. Food Service Program

A. Food Service Management Company Responsibilities

1. The FSMC will provide the SFA with an electronic Ordering meal/milk counting system. Such meal/milk counting system must eliminate any potential for the overt identification of free and reduced-price eligible students under 7 *CFR*, Section 245.8. This electronic ordering system will be used for the duration of this Contract and the SFA will not take an ownership interest or option in the electronic ordering system provided. FSMC must provide detail regarding the specifications, procurement process, and the price of the system will be included in the quoted meal price. The District is looking to have a fully pre-ordered system and the electronic ordering system must facilitate timely preordering and food procurement needs.
2. The SFA participates in meal programs that require the use of nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially (51% or more by weight or volume) using agricultural commodities that are produced in the U.S. as provided in 7 *CFR* 210.21(d) and 220.16[d]).
3. The Respondent will document why a non-domestic food is being substituted for domestic foods. The documentation is intended to indicate if the alternative food is due to the cost of domestic being significantly higher than non-domestic foods and/or the domestic foods are not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality. The Respondent will provide documentation justifying their use of exceptions to the Buy American Provision.
4. The Respondent will provide documentation about the percentage of domestic product in any processed end product. If the percentage is less than 51% then the respondent will notify the SFA of the non-domesticity of the process end product.
5. The FSMC will provide certification of domestic origin for products which do not have country of origin labels.

B. School Food Authority Responsibilities

1. The SFA shall ensure that the food service operation is in conformance with the SFA's Permanent Single Agreement with the CDE and will monitor the food service operation through periodic on-site visits (7 *CFR*, sections 210.16[a][2] and 210.16[a][3]).
2. The SFA shall retain control of the quality, extent, and general nature of the food service program and establish all program and nonprogram meal and a la carte prices (7 *CFR*, sections 210.09(b)(1) and 210.16[a][4]).
3. SFAs with more than one school shall perform no less than one on-site review of the lunch counting and claiming system employed by each school under its jurisdiction. The on-site review shall take place prior to February 1 of each school year. Further, if

the review discloses problems with a school's meal counting or claiming procedures, the SFA shall ensure that the school implements corrective action and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problem. Each on-site review shall ensure that the school's claim is based on the counting system authorized by the CDE under 7 *CFR*, Section 210.7(c) and that the counting system, as implemented, yields the actual number of reimbursable free, reduced-price, and paid lunches respectively, served for each day of operation (7 *CFR*, Section 210.8[a][1]).

4. The SFA shall retain control of the nonprofit school service account and overall financial responsibility for the nonprofit food service operation; the quality, extent, and the general nature of its food service; and the prices children are charged for meals (7 *CFR*, Section 210.16[a][4]).
5. The SFA shall retain responsibility for developing the meal pattern for students with disabilities, when their disability restricts their diet, and for those students without disabilities who are unable to consume the regular lunch because of medical or other special dietary needs (7 *CFR*, Section 210.10[m]).
6. The SFA shall retain signature authority for the food services application, agreements, Free and Reduced-Price Policy Statement, monthly Claim for Reimbursement, reports, program renewal, the verification of applications, letters to households, and all correspondence to the CDE relating to the food service program (7 *CFR*, Section 210.16[a][5]).
7. The SFA shall retain signature authority and be responsible for all contractual agreements entered into in connection with the food service program (7 *CFR* Section 210.21).
8. The SFA shall be responsible for the establishment and maintenance of the free and reduced-price meals eligibility roster (*EC* Section 49558).
9. The SFA shall be responsible for the development, distribution, and collection of the letter to households and Application for Free and Reduced-Price Meals and/or Free Milk. (*EC* Section 49558 and 7 *CFR*, Section 245.6).
10. If the SFA uses direct certification of eligibility, the SFA shall be responsible for obtaining the direct certification list at least annually (*EC* Section 49558).
11. The SFA shall be responsible for the determination of eligibility for free and reduced-price meals and shall disclose the eligibility status of individual students or confidential information provided on the application for free or reduced-price meals to the FSMC, to the extent that such information is necessary for the FSMC to fulfill its obligations under this Contract. The FSMC will not disclose the eligibility status of individual students or confidential information provided.

12. The SFA shall be responsible for conducting any hearings related to determinations regarding free and reduced-price meal eligibility (*EC* Section 49558 and *7 CFR*, Section 245.7).
13. The SFA shall be responsible for verifying applications for free and reduced-price meals as required by federal regulations (*7 CFR*, sections 245.6 and 245.6a).
14. The SFA shall establish and maintain an advisory board composed of parents, teachers, and students to assist with menu planning the respondent will provide support and materials to help facilitate this planning process (*7 CFR*, Section 210.16[a][8]).
15. The SFA shall maintain applicable health certification and ensure that all state and local regulations are being met at an SFA facility (*7 CFR*, Section 210.16[a][7]). The SFA shall ensure that all state and local regulations are being met by FSMC in preparing meals by FSMC off-site.

U.S. Department of Agriculture Foods

A. Food Service Management Company Responsibilities

1. The FSMC shall fully use, to the maximum extent possible, USDA Foods made available by the SFA solely for the purpose of providing benefits for the SFA's nonprofit school food program (*7 CFR*, Section 210.16[a][6]).
2. In accordance with *7 CFR* Section 250.53, the FSMC shall comply with the following provisions relating to the use of USDA Foods, as applicable:
 - a. The FSMC must credit the SFA for the value of all USDA Foods (including both entitlement and bonus foods) received for use in the SFA's meal service in the school year or fiscal year. The credit must include the value of USDA Foods contained in processed end products if the FSMC procures processed end products on behalf of the SFA, or acts as an intermediary in passing on the USDA Food value of processed end products to the SFA (*7 CFR*, Section 250.51[a])
 - b. The FSMC shall account for the full value of USDA Foods (*7 CFR*, Section 250.51) by:
 - i) Subtracting the value of all USDA Foods received for use in the SFA's food service from the SFA's (monthly/quarterly) invoice, and

ii) Using the Average Price File for the school year that the USDA Foods are received by the SFA. This listing is available from the USDA Food Distribution Web page at <http://www.fns.usda.gov/fdd/processor-pricing-reports>

3. The FSMC will be responsible for any activities relating to USDA Foods in accordance with 7 *CFR*, Section 250.50(d)(2), (3), and (4), and will ensure that such activities are performed in accordance with the applicable requirements in 7 *CFR*, Part 250.
4. The FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.
5. The FSMC must use all donated ground beef and ground pork products, and all processed end products, in the SFA's food service (7 *CFR*, Section 250.51[d]).
6. In accordance with 7 *CFR* Section 250.51(d), the FSMC may, in most cases, use commercially purchased foods of the same generic identity, of U.S. origin and of equal or better quality, in place of donated foods. Exceptions are donated ground beef, donated ground pork, and all processed end products, which contain donated foods that may not be replaced with commercial substitutes. The SFA must ensure that such substitution has been made and that it has received credit for the value of all donated foods received, in accordance with review requirements in 7 *CFR*, Section 250.54(c).
7. According to 7 *CFR*, Section 250.53(a)(7), the FSMC shall ensure that the processing agreement's value will be used in crediting the SFA for the value of USDA Foods contained in end products.
8. The FSMC will provide assurance that it will not itself enter into the processing agreement with the processor required in subpart C of 7 *CFR* Part 250.
9. The FSMC will provide assurance that it will comply with the storage and inventory requirements for USDA Foods (7 *CFR*, Section 250.53[a][9]).
10. The distributing agency, subdistributing agency, the CDE, SFA, the Comptroller General, the USDA, or their duly authorized representatives, may perform on-site reviews of the FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods (7 *CFR*, Section 250.53[a][10])

11. The FSMC will maintain records to document its compliance with requirements relating to USDA Foods, in accordance with 7 *CFR*, Section 250.54(b).
12. Any extensions or renewals of the Contract, if applicable, are contingent upon the fulfillment of all Contract provisions relating to USDA Foods (7 *CFR*, Section 250.53[a][12]).

B. School Food Authority Responsibilities

1. The SFA shall retain title to all USDA Foods and ensure that all USDA Foods received by the SFA and made available to the FSMC accrue only for the benefit of the SFA's nonprofit school food service and are fully used therein (7 *CFR*, Section 210.16[a][6]).
2. The SFA shall accept and use, in as large quantities as may be efficiently used in its nonprofit food service program, such foods as may be offered as a donation by USDA (7 *CFR*, Section 210.9[b][15]).
3. The SFA will maintain records to document its compliance with requirements relating to USDA Foods and conduct reconciliation (at least annually and upon termination of the Contract) to ensure that the FSMC has credited the value of all USDA Foods in accordance with 7 *CFR*, sections 250.54(a) and (c).
4. The SFA will not extend or renew any Contract if the FSMC did not fulfill all Contract provisions relating to donated foods. (7 *CFR*, Section 250.53[a][12])

Meal Responsibilities

A. The SFA shall:

1. Offer free, reduced-price, and paid reimbursable meals to all eligible children through the SFA's food service program (7 *CFR*, Section 210.16[a]).

2. Provide meals through the SFA's food service program that meet the requirements as established in 7 *CFR*, Part 210.
3. Retain sole control of the preparation, delivery, and service of meals.

Food Service Management Company Employees

1. The FSMC shall only place employees for work in the SFA that meet the minimum professional standards outlined in 7 *CFR*, Section 210.30 which can be viewed at the following Web page: http://www.fns.usda.gov/sites/default/files/cn/pofstandards_flyer.pdf.

The SFA shall ensure that all employees the FSMC proposes for placement meet the minimum professional standards. The FSMC shall ensure their employees take the required annual training as outlined in the professional standards. The FSMC shall track the trainings completed by each employee and maintain documentation to validate that training was completed. The FSMC shall remove from the SFA premises any employee who fails to take the required training.

The FSMC shall provide the SFA with a list of employees and evidence that they meet the professional standards.

- A. The SFA reserves the right to interview and approve the on-site food service consultant(s)/employee(s).
- B. The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and work hours. The FSMC will provide specific locations and assignments to the SFA two (2) calendar weeks prior to the commencement of operation.
- C. The FSMC shall comply with all wage and hours of employment requirements of federal and state laws. The FSMC will be responsible for supervising and training their personnel.
- D. The FSMC agrees to assume full responsibility for the payment of all contributions and assessments, both state and federal, for all of its employees engaged in the performance of this Contract.

- E.** The FSMC agrees to furnish the SFA, upon request, a certificate or other evidence of compliance with state and federal laws regarding contributions, taxes, and assessments on payroll.
- F.** The FSMC will be solely responsible for all personnel actions regarding employees on its respective payroll. The FSMC shall withhold and/or pay all applicable federal, state, and local employment taxes and payroll insurance with respect to its employees, insurance premiums, contributions to benefit and deferred compensation plans, licensing fees, and workers' compensation costs, and shall file all required documents and forms. The FSMC shall indemnify, defend, and hold the SFA harmless from and against any and all claims, liabilities, and expenses related to, or arising out of, the indemnifying party's responsibilities set forth herein.

Books and Records

- A.** The SFA and the FSMC must provide all documents as necessary for an independent auditor to conduct the SFA's single audit. The FSMC shall maintain such records as the SFA will need to support its Claims for Reimbursement. Such records shall be made available to the SFA upon request and shall be retained in accordance with 7 *CFR*, Section 210.16(c)(1).
- B.** The SFA and the FSMC shall, upon request, make all accounts and records pertaining to the nonprofit food service program available to the CDE and USDA FNS for audit or review at a reasonable time and place. Each party to this Contract shall retain such records for a period of three (5) years after the date of the final Claim for Reimbursement for the fiscal year in which this Contract is terminated, unless any audit findings have not been resolved. If audit findings have not been resolved, then records shall be retained beyond the three-year period as long as required for resolution of issues raised by the audit (7 *CFR*, Section 210.9(b)(17) and 7 *CFR*, Section 210. 1[c][1]).
- C.** The FSMC shall not remove state or federally required records from the SFA premises upon contract termination.
- D.** The SFA and the FSMC shall allow the CDE, USDA, the Comptroller General of the United States, or any of their duly authorized representatives access to any books, documents, papers, and records of the FSMC that are directly pertinent to the Contract for the purpose of making any audit, examination, excerpts, and transcriptions (2 *CFR*, Section 200.336[a]).

IX. Monitoring and Compliance

- A.** The SFA shall monitor the food service operation through periodic on-site visits in order to develop recommendations for improvement of the food service program
- B.** The FSMC warrants and certifies that in the performance of this Contract it will comply with all applicable statutes, rules, regulations, and orders of the United States and the state of California.
- C.** The SFA shall establish internal controls that ensure the accuracy of lunch counts prior to the submission of the monthly Claim for Reimbursement in accordance with 7 *CFR*, Section 210.8(a). At a minimum, these internal controls shall include all of the following:
 - An on-site review of the lunch counting and claiming system employed by each school within the jurisdiction of the SFA (7 *CFR*, Section 210.8[a][1])
 - Comparisons of daily free, reduced-price, and paid lunch counts against data that will assist with the identification of lunch counts in excess of the number of free, reduced-price, and paid lunches served each day to children eligible for such lunches
 - A system for following up on lunch counts that suggest the likelihood of lunch counting problems.

X. Equipment, Facilities, Inventory, and Storage

- A.** The SFA will make available to the FSMC, without any cost or charge, area(s) of the premises agreeable to both parties in which the FSMC shall deliver meals. The SFA shall be responsible for loss or damage to equipment owned by the FSMC and located on the SFA's premises. Meals are prepared by the SFA on-site.
- B.** The FSMC shall notify the SFA of any equipment belonging to the FSMC on the SFA's premises within 10 days of its placement on the SFA's premises.
- C.** The premises and equipment provided by the SFA for use in its nonprofit food service program shall be in good condition and maintained by the SFA to ensure compliance with applicable laws concerning building conditions, sanitation, safety, and health including, without limitation, Occupational Safety and Health Administration regulations. The SFA further agrees that any structural or nonstructural modifications or alterations to the workplace or the premises necessary to comply with any statute or governmental regulation shall be the responsibility of the SFA and shall be at the SFA's expense. This provision shall survive termination of this Contract.

- D. The SFA shall have access, with or without notice, to all of the SFA's facilities used by the FSMC for purposes of inspection and audit.
- E. Ownership of the beginning inventory of food and supplies shall remain with the SFA.
- F. All USDA Foods shall remain with the SFA (7 *CFR*, Section 210.16[a][6]).
- G. Ownership of all nonexpendable supplies and capital equipment shall remain with the SFA. However, the FSMC must take such measures as may be reasonably required by the SFA for protection against loss, pilferage, and/or destruction.

XI. Certifications

- A. The FSMC warrants and certifies that in the performance of this Contract, it will comply with the rules and regulations of the CDE and the USDA, and any additions or amendments thereto, including but not limited to 2 *CFR*, Part 200 and 7 *CFR*, parts 210, 215, 220, 225, 245, 250, and USDA FNS Instruction and policy, as applicable. The FSMC agrees to indemnify the SFA and the CDE against any loss, cost, damage, or liability by reason of the FSMC's violation of this provision.
- B. The FSMC shall comply with Title VI of the Civil Rights Act of 1964, as amended; USDA regulations implementing Title IX of the Education Amendments; Section 504 of the Rehabilitation Act of 1973; and any additions or amendments to any of these regulations.
- C. The SFA and FSMC shall comply with all applicable standards, orders, or regulations issued, including:
 - A. Section 306 of Clean Air Act (42 *U.S.C.* 1847[h]):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap85-subchapIII-sec7602.pdf>
 - B. Section 508 of the Clean Water Act (33 *U.S.C.* 1368):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title33/pdf/USCODE-2013-title33-chap26.pdf>
 - C. Executive Order 11738: <http://www.epa.gov/isdc/eo11738.htm>
 - D. Environmental Protection Agency (EPA) regulations at Title 40, *Code of Federal Regulations*, Part 15, et seq.
http://www.ecfr.gov/cgi-bin/text-idx?SID=9ed90ed6fc9c89c5c8465c743584c79a&tpl=/ecfrbrowse/Title40/40tab_02.tpl). Environmental violations shall be reported to the USDA and the U.S. EPA Assistant Administrator for Enforcement, and the FSMC agrees not to use a facility listed on the EPA's List of Violating Facilities
- D. Debarment Certification

The USDA Certification Regarding Debarment must accompany each subsequent four (4) additional one-year renewals (2 *CFR*, sections 180 and 417). Contract renewals that do not include this certification will not be accepted for consideration.

E. Lobbying

The Certification Regarding Lobbying and a Disclosure of Lobbying Activities form (2 *CFR*, Section 418) must accompany each subsequent four (4) additional one-year renewals (2 *CFR*, sections 180 and 417). Contract renewals that do not include this certification will not be accepted for consideration.

F. Energy Policy and Conservation Act: <http://legcounsel.house.gov/Comps/EPCA.pdf>.

The SFA and the FSMC shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state conservation plan issued in compliance with the Energy Policy and Conservation Act.

G. Contract Work Hours and Safety Standards Act Compliance:

<http://www.dol.gov/compliance/laws/comp-cwhssa.htm>.

FSMC will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standard Act.

XII. Insurance

The parties shall maintain the following insurances:

A. Workers' Compensation Insurance

Each party shall maintain Workers' Compensation Insurance coverage as required by state law, and Employers' Liability in the amount of one million dollars (\$1,000,000.00) for each accident covering all employees employed in connection with child nutrition program operations.

B. Comprehensive or Commercial Insurance

The FSMC shall maintain during the term of this Contract, for protection of the SFA and the FSMC, Comprehensive or Commercial General Bodily Injury and Property Damage Liability Insurance with a Combined Single Limit of not less than five million dollars (\$5,000,000.00) for each occurrence, including, but not limited to, Personal Injury Liability, Broad Form Property Damage Liability on the FSMC-owned property, Blanket Contractual Liability, and Products Liability, covering only the operations and activities of the FSMC under the Contract and, upon request, shall provide the SFA with a certificate evidencing such policies. The insurance policies shall contain covenants by the issuing company that the policies shall not be canceled without 30 days prior written notice of cancellation to the SFA. With the exception of Workers' Compensation Insurance, the SFA shall be named as an additional insured under the FSMC's policies of insurance to the extent the SFA is indemnified pursuant to this Contract.

C. Property Insurance

The SFA shall maintain, or cause to be maintained, a system of coverage either through purchased insurance, self-insurance, or a combination thereof to keep the buildings, including the premises, and all property contained therein insured against loss or damage by fire, explosion, or other cause normally covered by standard broad form property insurance.

XIII. Termination

Either party may terminate this Contract at any time upon 60-days' written notice (7 *CFR*, Section 210.16[d]).

Either party may cancel for cause with a 60-day notification if either party breaches a provision of this Contract (7 *CFR*, Section 210.16[d])) The nonbreaching party shall give the other party notice of such cause. If the cause is not remedied within 10 days, the nonbreaching party shall give a 60-day notice to the breaching party of their intent to terminate this Contract upon expiration of the 60-day period (2 *CFR*, Section 200.339[a][3]). This Contract may be terminated, in whole or in part, for convenience by the SFA with the consent of the FSMC, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated (2 *CFR*, Part 200). The Contract may also be terminated, in whole or in part, by the FSMC upon written notification to the SFA, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, in the case of a partial termination, if the SFA determines that the remaining portion of the Contract will not accomplish the purposes for which the Contract was made, the SFA may terminate the Contract in its entirety under 2 *CFR*, Part 200, Appendix II(B). The rights of termination referred to in this Contract are not intended to be exclusive and are in addition to any other rights or remedies available to either party at law or in equity.

Scope of Work

1. Overview of Los Gatos Union School District Food Service Program

A. Scale.

Blossom Hill Elementary 16400 Blossom Hill Rd. Los Gatos, CA 95032	Food Prepared on-site	TK - 5	<ul style="list-style-type: none"> • Breakfast at Recess
Daves Ave. Elementary 2800 New Jersey Ave San Jose, CA 95124	Food Prepared on-site	TK - 5	<ul style="list-style-type: none"> • Breakfast at Recess
R.J. Fisher Middle School 19195 Fisher Ave. Los Gatos, CA 95032	Food Prepared on-site	6-8	<ul style="list-style-type: none"> • Breakfast • Lunch

The SFA employs 6 persons who provide food service to approximately 2100 children at 3 sites. The food service prepares approximately 75,000 meals annually (meal break down on Exhibit B.)

B. Financial Goals.

1. FSMC will be responsible for paying for all food and equipment needed for meal preparation and service. The FSMC will also be responsible for conducting the meal point of sale.
2. FSMC's ability to make program recommendations, ensuring financial objectives of the district are met and the district is fully compliant with California Education Codes and Child Nutrition Regulations.

C. Management Goals . The FSMC shall work cooperatively with the Food Service Staff and/or the Chief Business Official in maintaining a high quality food program. Providing a professional environment where compliance and quality control is monitored with a high degree of accountability. The FSMC will be responsible for the preparation of an the timely delivery of school meals each school day

D. Food Service Office and Staff. The food service office is located at 19195 Fisher Avenue. The number of food service supervisory staff is 1 included in the total employees above.

E. SFA participates in the following programs: FSMC must have experience with .National Lunch Program (NSLP) and the School Breakfast Program (SBP). The SFA is interested in participating in the Fresh Fruit and Vegetable Program Pilot and would work cooperatively with the FSMC to facilitate participation in that program.

PROGRAM	GRADES	MAX ENROLLMENT*	AVERAGE DAILY PARTICIPATION	FULL PAY*	FREE*	REDUCED*
National School Lunch (NSLP)	K-8	2100	375	332	35	8
School Breakfast Program (SBP)	K-8	2100	150	135	13	2

*These numbers are based on full enrollment as of October 31 for the 2021-22 school year. There is no guarantee these numbers will be met.

2. Description of FSMC Responsibilities

- General: under the direction of the SFA's Food Service Director, the FSMC selected pursuant to this RFP will provide the following Assist and monitor for compliance related matter, including but not limited to the food regulations as defined by USDA, California Retail Food Code, and/or other compliance related matter as outlined by the Santa Clara County Environmental Health Department.
- Fully train SFA staff in all child nutrition regulations, monitor for compliance
- Make program recommendations that keep the program financially sustainable
- Prepare an annual board report, updating the board as it pertains to their food service program

The FSMC consultant will be onsite to manage responsibilities as outlined in the RFP.

3. Responsibilities of the FSMC shall include:

1. Purchasing of Supplies for the Food Service Program

Recommend (or be responsible for) purchasing standards and specifications that will result in the best quality of products and services at the lowest price for the food service program.

All transactions shall be conducted in a manner so as to provide maximum open and free competition as provided by statute and regulation.

The grade, purchase unit, style, weight, ingredients, formulation, etc., shall be in compliance with applicable statutes and regulations.

Purchase food and/or supplies (if applicable); if authorized by the SFA, the FSMC shall purchase food used by the food service operation including USDA foods. The purchasing of food shall not displace SFA staff or delegate responsibilities of the SFA to the FSMC.

Recommend new or improved procedures for the requisition, receipt, and verification of all supplies used by the food service operation

B. Facility or Site Operations

The FSMC shall recommend:

- Safety programs for employees
- Sanitation standards for housekeeping, preparation, storage, and equipment
- Adjustments to practices and operation of equipment as required
- A Food Safety Plan and participate in the development, implementation, and maintenance of said plan
- Methods to increase participation at all levels of the SFA's food service programs, improve food quality, and upgrade equipment and facilities
- Hours and number of positions at each site to meet food service operational needs

C. Menus

Adhere to the respondent proposed and SFA approved 28-day cycle menu for the first 28 days of meal service; thereafter, the FSMC may only make changes with the SFA's approval (7 *CFR*, 210.16[b][1] and 220.80.)

FSMC must provide expert guidance and advice on how the District can provide diverse menus that increases participation throughout the District.

Provide recommendations for menu development that will result in the best quality of products and services at the lowest price for the food service program.

Seek student and parent input on successful menu variation and planning.

Provide, upon request by the SFA, recommended menus to assure compliance with all applicable statutes and regulations; include menu recommendations to meet the needs of students with special dietary needs or disabilities

Monthly Menu Planning

- No later than one (1) week prior to the end of each month, FSMC will provide to SFA a monthly menu covering the meals to be served for the following month.
- Any unforeseen menu changes or substitutions must be immediately communicated to SFA. SFA shall provide response within 24 hours. In the event of an emergency, FSMC will make changes and communicate the need to SFA without awaiting a response.
- Students with special dietary needs must have on file a signed statement by a medical doctor or a recognized medical authority.
- The FSMC must propose a fixed price per meal that uses minimally processed foods. FSMC produces a 28 day breakfast, lunch menu cycle based on parent and student feedback and is compliant with the School Breakfast Program and National School Lunch Program criteria. FSMC recipes for the menu provided in the RFP shall include a list of specific ingredients used in the recipes.

D. Quality Control

Recommend or establish a formal structure to routinely and continuously gather input from students, staff, and parents about food services.

Recommend or establish a structure or process to routinely and continuously gather input from food service employees to ensure the most effective and efficient operation possible.

E. Staff

Recommend management staff and structure that will enhance the SFA's food service programs and ensure that the SFA's food service programs are of consistent top quality and held in positive regard by students, staff, and the public.

Recommend or establish and conduct management and staff training programs that will ensure staff development, proper supervision, professional/health certification, and consistent quality control both in production and service

F. Records

Maintain full and complete financial and inventory records sufficient to meet federal and state requirements and that are in accordance with generally accepted accounting procedures.

Maintain employment records that show FSMC staff have all professional and health certifications as required by federal or state law and the SFA

G. Education

Recommend actions or events to promote the nutrition education aspects of the food service program, and recommend or cooperate with efforts to merge these actions or events with classroom instruction; the FSMC will work in partnership with the SFA to educate students, parents, teachers, and the community about efforts to promote better nutrition and health.

Coordinate meeting times with the Food Service Director, other SFA staff, and parents or students to discuss ideas to improve the food service program; arrange meetings between an acceptable management representative of the FSMC and the Food Service Director, other SFA staff, and/or the school board, upon request

H. Reports

Collect and provide, in the required format, information necessary for school food service claims for reimbursement from state and federal agencies and maintain records of past information; at the end of each month the number of meals to be claimed will be submitted to the SFA contact by the FSMC consultant/representative on or before the **15th** of each month (7 *CFR*, 210.16[c][1]).

Provide the SFA with monthly operating statements and other information determined by the SFA regarding the food service programs

I. Point of Service

Provide and/or implement an accurate point of service meal/milk count; such meal/milk counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under 7 *CFR*, Section 245.8

3. Specific FSMC Tasks

- A. The FSMC must propose a fixed price per meal that uses minimally processed foods. (**Minimal processing** means that the product was **processed** in a manner that does not fundamentally alter the product). FSMC produces a 28 day menu based on parent and student feedback and is compliant with the National School Lunch program criteria. FSMC recipes for the menu provided in the RFP shall include a list of specific ingredients used in the recipes.
- B. The FSMC must provide the efficiency and cost factors that allow the Food Service Fund to maximize its revenue potential.
- C. The FSMC must show meal participation data and meals per labor hour data to the Chief Business Official on a Monthly Basis.
- D. The FSMC may make recommendations based on the best practices to increase efficiency and reduce costs while maintaining high quality meals. All recommendations shall be submitted in writing to the Chief Business Official. The FSMC understands recommendations may or may not lead to action by the SFA.

Exhibit B

Schedule of Fees

The costs included in the Cost per Meal table comprise the fixed price per meal. The fees are agreed upon by both parties and represent allowable food service costs in accordance with 2 CFR, Part 200.

All costs are based on the average daily participation of 400 number of meals served on 180 number of school days.

Cost per Meal

Note: Prices must **not** include values for USDA Foods, and must include all meal programs.

LINE ITEM	UNITS*	RATE	TOTAL
Breakfast	280	\$	\$
Lunch	120	\$	\$
Snacks	Included in lunch price	\$	\$
TOTAL		\$	\$

*Units to be provided by SFA