

Request for Proposals

2016-17 Vended Meal Service

Roses in Concrete

4551 Steele St., Oakland, CA 94619

Bid Opening June 8, 2016 at 5:00 pm



Roses in Concrete (hereinafter referred to as the School Food Authority or SFA) is requesting proposals for the Vended Meal Service for the 2016-17 school year from qualified Food Service Management Companies (FSMC). Roses in Concrete's campus is located at 4551 Steele St., Oakland, CA 94619.

Roses in Concrete is a public charter school approved through the California Department of Education. Opening in August 2015, Roses in Concrete is a K-8 school with an anticipated enrollment of 200 students in 2016-17.

RESPONSE DATE AND DELIVERY

Food Service Management Companies should submit proposals by **5:00 PM PST on June 8, 2016**. One (1) labeled, signed original, two (2) copies and one (1) electronic copy of the proposal should be submitted.

1. Proposals should be mailed or hand-delivered before the deadline to:

Leslye Salinas
c/o School Food Solutions
4551 Steele St., Oakland, CA 94619

2. Electronic copies should be submitted via email before the deadline to:

bob@schoolfoodsolutions.org

Any proposal submitted after the 5:00 PM deadline on June 8, 2016 will not be accepted by the SFA and automatically disqualified from the bid process.

PURPOSE

This solicitation is for the purpose of entering into a contract for the operation of a vended food service program serving breakfast, lunch and snack at Roses in Concrete for school year 2016-17, with the option, by mutual agreement, for four (4) one year extensions.

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

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

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SCOPE OF WORK

The vendor will supply meals (breakfast, lunch, dinner, snack) to Roses in Concrete Community School, hereinafter referred to as the School Food Authority or SFA, that comply with the nutritional standards established by the United States Department of Agriculture (USDA) for the National School Lunch Program. The vendor will prepare meals off-site in a facility that maintains the appropriate state and local health certifications, and will package and deliver these meals in accordance with the food safety guidelines of the appropriate governing health departments. Vendors must submit with their bid a copy of the current state and local health certifications.

GENERAL VENDOR RESPONSIBILITIES

- a. The vendor shall provide the services required by this RFP at all times in accordance with generally accepted standards of care and best practices in the industry.
- b. Vendor shall deliver meals to location(s) at times specified by SFA.
- c. Vendor is expected to follow all regulations of the NSLP and SBP, and also the Child and Adult Care Food Program (CACFP) in accordance with USDA and CDE guidelines. Daily meal production records and temperature logs (departure, arrival and service) are to be recorded and maintained on site in an organized manner. All meals are to follow the USDA meal pattern for the ages served at each site. FSMC staff are expected to be properly trained on all aspects of the Program requirements (Civil rights, non-discrimination, offer vs serve, food safety) prior to beginning service. Each staff member must obtain the Food Handlers License prior to handling food items and submit a copy of the license to the SFA. All FSMC staff is to treat all students with respect and maintain confidentiality when serving meals.
- d. Vendor will provide the necessary utensils and napkins in sufficient quantity for the number of meals ordered.
- e. Vendor shall be responsible for the condition or care of meals until they are delivered to the school.
- f. The vendor shall be responsible for providing meals and menus appropriate for the age of the students served and acceptable to students evidenced by a minimum of plate waste and participation levels.
- g. Vendor shall provide to SFA a monthly menu covering the meals to be served for the following month, no later than two (2) weeks prior to the end of each month.
- h. When requested by the SFA, the Vendor shall provide SFA with bag lunches for field trips. All meals for field trips must meet the appropriate meal pattern requirements.
- i. Vendor shall maintain all necessary records on the nutritional components and quantities of the meals served at the SFA and make said records available for inspection by the SFA, the CDE, and the USDA, upon request.
- j. The vendor shall participate in the parent, teacher, and student advisory board.

- k. The vendor is required to substitute food components of the meal pattern for students with disabilities in accordance with 7 C.F.R. §210.10(m) when the disability restricts their diet and is permitted to make substitutions for students without disabilities when they are unable to eat regular meals because of a medical or special dietary need.

GENERAL SFA RESPONSIBILITIES

- a. The SFA shall approve the menus and recipes for meals and other food to be served or sold to students to ensure compliance with the rules and regulations of the state of California and the United States Department of Agriculture. The SFA must authorize any deviations from the approved menu cycle.
- b. The SFA may request menu changes periodically throughout the Term of the Contract and shall inform the vendor of any adjustments to menus and monitor implementation of adjustments.
- c. The SFA orders meals on a weekly basis for each site for each type of meal to be delivered. The SFA can increase or decrease the number of meals ordered or cancel deliveries on a twenty-four hour notice to the vendor.
- d. The SFA shall be responsible for receiving medical statements regarding students' disabilities/special dietary needs and shall ensure the vendor complies with all special dietary accommodation requirements. Substitutions are made on a case-by-case basis and must be supported by a statement of the need for substitutes that includes the recommended alternate foods.

EQUIPMENT

- a. The SFA shall provide equipment to hold and serve the meals.
- b. The vendor shall provide written notification to the SFA of any equipment belonging to the vendor within ten days of its placement on SFA premises.
- c. The vendor shall retain title to all vendor-owned property and equipment when placed in service. The vendor shall provide, at no cost to the SFA, complete maintenance, repair, and replacement services for all vendor-owned property and equipment.
- d. Upon expiration or termination of the Contract, it shall be the vendor's responsibility to remove all vendor-owned property and equipment within a timely manner and without damage to SFA facilities.

PACKAGING REQUIREMENTS

- a. Hot meal unit—Packaging suitable for maintaining components at temperatures in accordance with state and local health standards. Container and overlay should have an airtight closure, be of non-toxic material, and be capable of withstanding temperatures of 135°F.

- b. Cold meal unit or unnecessary to heat—Container and overlay to be plastic or paper and of non-toxic material.
- c. Sack meals must be in white or brown paper bags or in boxes with enough strength to hold meals without tearing or ripping.
- d. Meals shall be delivered with the following items: condiments, straws for milk, napkins, single service ware, and serving utensils. Vendor shall insert non-food items that are necessary for the meal to be eaten.

DELIVERY REQUIREMENTS

- a. Meals must be delivered in accordance with the approved menu cycle.
- b. The vendor shall provide a delivery slip with the date and the number of meals delivered. The SFA authorized representative or his/her designee must sign the delivery slip and verify the condition of the meals received.
- c. Meals must be delivered in closed-topped, sanitary vehicles.
- d. Meals must be delivered in clean, sanitary transporting containers that maintain the proper temperatures of food and are food-grade containers approved by the local or state health departments.
- e. When an emergency prevents the vendor from delivering meals, the vendor shall notify the SFA-authorized representative or his/her designee immediately by phone of the emergency and when the meals will be delivered.
- f. The SFA reserves the right to inspect and determine the quality of food delivered. The SFA may reject and not pay for any meals or components of meals that are unwholesome, judged as poor quality, damaged, incomplete either due to inadequate portion sizes or missing number of meal components, or delivered in unsanitary conditions such as incorrect temperatures.
- g. The SFA will not pay for deliveries made later than the regularly scheduled lunch or breakfast periods as listed on **Attachment M**, or as otherwise stated in this Contract.
- h. All refrigerated food shall be delivered at an internal temperature of 40°F or below. No frozen food will be allowed. All hot food shall be delivered with an internal temperature of 135°F or above.

PROPOSAL SUBMISSION AND AWARD

Sealed proposals are to be submitted to the SFA. Proposal is to be submitted in a sealed box marked "Food Service Management Proposal." Send one (1) original and one copy of the proposal to the addresses listed above. The SFA reserves the right to reject any or all proposals, if deemed to be in the best interest of the SFA.

Award shall be made to the qualified and responsible FSMC whose proposal is deemed in the best interest of the School by the evaluation process. FSMC must fully inform themselves as to the conditions, requirements and specifications before submitting proposal.

INCURRED COSTS

The SFA is not liable for any cost incurred by the FSMC prior to the signing of a contract.

CONTACT TERMS

This contract shall be for an approximate period of one year beginning on August 1, 2016 and ending June 30, 2017 with up to four one (1) year renewals with mutual agreement between the SFA and the FSMC.

The Food Service program shall meet all requirements of the National School Lunch and School Breakfast Programs of the United States Department of Agriculture, and the Mississippi Department of Education.

The SFA shall retain ultimate control over meal prices, and all appropriate elements of the food service program.

Terms of the actual agreement with the successful FSMC will be developed through negotiation to be consistent with the rights reserved by the SFA as described by USDA rules and regulations.

PRE-PROPOSAL MEETING/SURVEY OF SCHOOL

A non-mandatory pre-proposal meeting will occur on **May 17, 2016**. All interested FSMC should arrive at Roses in Concrete, located at 4551 Steele St., Oakland, CA 94619 at **3:00 PM**. This opportunity will afford companies to visit the onsite kitchen, with a Q/A session to follow.

QUESTION AND ANSWER

All questions shall be submitted to Robert Keogh (bob@schoolfoodsolutions.org) via email. A formal addendum to this bid will be made available to interested vendors providing answers to a cumulative list of questions.

RFP TIMELINE

Bid published, advertised and sent to vendors	May 9, 2016
Pre-proposal meeting	May 17, 2016 at 3:00 PM
Questions due to SFA	May 20, 2016 at 5:00 PM
Answers to proposers' questions	May 25, 2016
Proposals Due	June 8, 2016
Taste Test	June 9-10, 2016

Bid evaluation by scoring committee	June 13-14, 2016
Award Notification	June 15, 2016
Contract Negotiation	June 16, 2016 – June 20, 2016
California Department of Education Review	June 21, 2016 – July 31, 2016
Contract Begins	August 1, 2016
First Day of School	August 22, 2016

Roses in Concrete reserves the right to issue any necessary addendum(s) to this RFP. Interested parties will be informed of any and all addenda via email.

Send all questions to: Robert Keogh c/o bob@schoolfoodsolutions.org

EVALUATION CRITERIA

Detailed information, including minimum standards and evidence/documentation requirements may be found on Attachment L.

Criteria	Points
Financial Stability	5
Taste Test	10
Vended Meal Capabilities	10
K12 Experience in NSLP	10
References	10
Online Meal Ordering System	10
Healthy Food Standards	10
Cost	35
Total	100

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:

<u>Section</u>	<u>Title</u>
A.	Cover Letter
B.	Table of Contents
C.	Attachments Checklist
D.	Minimum Qualifications
E.	Proposal Questionnaire
F.	Respondent References
G.	Authorization Agreement
H.	Fee Proposal
I.	Certifications

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.

C. Attachments 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.

D. Minimum Qualifications

The SFA will only consider Respondents that **meet all minimum qualifications** (as listed on Attachment B) to the SFA's satisfaction.

E. Proposal Questionnaire

The Proposal Questionnaire (Attachment C) 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 D). 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 E) and return it with the proposal package.

H. Fee Proposal

The Respondent must complete the Fee Proposal (Attachment F) and return it with the proposal package. The Fee Proposal must include costs incurred to provide the services specified in this RFP, to include breakfast, lunch and snack.

I. Certifications

The Respondent must complete the certifications and return them with the proposal package.

Attachment A

Attachments Checklist

Respondent Company Name

Please complete this checklist to confirm that the required attachments listed below are 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 documents must be returned, including this checklist. Submit one copy of your proposal in a sealed package.

Attachment	Attachment Name
A. _____	Cover Letter
B. _____	Table of Contents
C. _____	Attachments Checklist
D. _____	Minimum Qualifications
E. _____	Proposal Questionnaire
F. _____	Respondent References
G. _____	Authorization Agreement
H. _____	Fee Proposal
I. _____	Certifications
J. _____	Sample Menu

Attachment B

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, 2015 both the Respondent's company and its key personnel meet all of the following minimum qualifications:

1. The Respondent has at least five years of experience with food service programs.
Yes _____ No _____
2. The Respondent has the resources and ability to provide [insert number] of meals per fiscal year.
Yes _____ No _____
3. The Respondent has knowledge and experience with the National School Lunch Program and School breakfast Program.
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 _____
6. The Respondent has obtained all necessary permits, including a health permit, as required by the California Retail Food Code.
Yes _____ No _____

Attachment C

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 meal vendor and related services as described in this RFP. In addition, provide the duration and extent of experience the company has with similar SFA food 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 three 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 applicable financial data that will demonstrate the proposer's ability to perform, including sufficient capital to cover start-up and operating costs for a proposed one (1) year agreement.
7. Provide a recommended transition plan that describes the steps the Respondent will take to begin providing the services described in this RFP.

Attachment D

Respondent References

List three references to which the Respondent has provided meal vendor services within the past 5 years.

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 E

Fee Proposal

Cost Per Meal Table Basic Instructions: provide the cost per meal; base all food costs on the attached 21-day cycle menu

COST PER MEAL

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

MEAL	UNITS¹	RATE²	TOTAL³
Breakfast	9,050	\$	\$
Lunch	27,150	\$	\$
Dinner	5,430	\$	\$
Snacks	36,200	\$	\$
Nonreimbursable Meals		\$	\$
TOTAL	77,830	\$	\$

¹ To be completed by SFA

² All rates to be completed by bidder

³ To be completed by bidder - all totals must be carried out to the second decimal place and must not be rounded

Company Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

By submission of this bid, the bidder certifies that in the event the bidder receives an award under this solicitation the bidder shall operate in accordance with all current applicable state and federal regulations.

Signature of Bidder's Authorized Representative: _____

Title: _____

Date: _____

Attachment F

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.

1. 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.

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

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.

Attachment H

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 I

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

Title

Date

Authorized Representative

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

Attachment J

Menu Specifications

Respondent must submit a sample breakfast and lunch menu for one four-week period, based on the below food specifications.

SFA will examine the sample menu on three criteria: 1) meal nutrition; 2) meal variety; 3) menu compliant with USDA meal pattern requirements, and state/federal portion sizes and nutritional values.

Meal nutrition: SFA will examine whether meals provide the proper amount of grains, produce, dairy and meat.

Meal variety: SFA will examine whether Respondents provide a variety of exciting and interesting meals.

Attachment K

Food Specifications

SFA Healthy Food Standards

The SFA is issuing this bid with the priority of providing healthy meal options to students. 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. Vendor must be able to document compliance for these standards.

USDA (min per day) Cups/oz/grams per week	USDA K-5 Standards July 2012	SFA Standards 2016-17
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) Fresh or frozen (no additives). Fruits must be served at every lunch, no canned fruits allowed. 2) No juice can be served at lunch 3) Daily serving reflects variety over the week
Vegetables 3.75 (0.75)	6) Daily serving that reflects variety over the week 7) Fresh, frozen, and canned products <ul style="list-style-type: none"> - 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) 	4) Fresh or frozen (no additives). Vegetables must be served at every lunch, no canned vegetables allowed 5) A daily vegetarian entrée option must be provided if the entree is not vegetarian
Grain 8-9 oz (1)	8) Schools must offer the daily and weekly serving ranges of grains (min and Max) 9) All grains offered must be whole grain-rich (SY2014-15) <i>“Whole grain-rich” must be at least 50 percent whole grains</i> 10) Only 2 creditable grain-based desserts allowed a week. 11) Grains should meet at least one of the following: <ul style="list-style-type: none"> - Whole grains pre-serving must be ≥ 8g (IOM) - Must have FDA’s whole grain 	6) All grains served must meet both of the following: <ul style="list-style-type: none"> - Whole grains per serving must be ≥ 8gm (IOM) - Whole grain must be first in product ingredient list

	<p>health claim on packaging</p> <ul style="list-style-type: none"> - Whole grain must be first in product ingredient list 	
<p>Meats/Meat Alternates</p> <p>8-10 oz (1)</p>	<p>12) A variety of meat/meat alternates is encouraged</p> <p>13) Tofu and soy yogurt will be allowable as meat alternate</p>	<p>7) No mechanically separated meat</p> <p>8) No animal by-products</p> <p>9) Serving of processed meats with additives and fillers (e.g. sausage, meat patties) <u>must be limited to 2 times per week</u></p>
<p>Cheese</p>	<p>No standard</p>	<p>10) No serving of processed cheese with additives and fillers (e.g. American cheese)</p>
<p>Fluid Milk</p> <p>5 (1)</p>	<p>14) Allowable options</p> <ul style="list-style-type: none"> - Fat free (unflavored/flavored) - Low-fat (unflavored) - Fat-free or low-fat (lactose-reduced/lactose-free) <p>15) Must offer at least two choice</p>	<p>11) All milk served must be rBST and rBGH free (artificial growth hormone free) as declared by manufacturer</p>
<p>Saturated Fat</p>	<p>16) < 10 percent of total calories</p> <p>17) No total fat standard</p>	
<p>Trans Fat</p> <p>0g</p>	<p>18) 0 grams = less than 0.5g serving</p> <p>19) Naturally occurring trans fat excluded (e.g. beef, lamb, dairy products)</p>	<p>12) No artificial trans fats or hydrogenated oils in ingredient lists</p>
<p>Calories</p>	<p>20) 550-650 (min-max kcal)</p>	
<p>Sodium</p>	<p>21) Current standard: ≤ 1230 mg</p> <p>22) 2022-23 standard: ≤ 640 mg</p>	
<p>Sugar</p>	<p>No standard</p>	<p>13) Only products with little added and natural sugar are allowed</p> <p>14) No foods with High Fructose Corn Syrup in the ingredient list are allowed</p>
<p>Cooking Method</p>	<p>No standard</p>	<p>15) No deep frying</p> <p>16) Fresh, less processed food preparation methods are encouraged</p>
<p>Water</p>	<p>No standard</p>	<p>17) Water is provided daily as a beverage option</p>
<p>Competitive Foods</p>	<p>No standard</p>	<p>18) No competitive foods can be sold in the cafeteria or on school premises</p>
<p>Food Procurement</p>	<p>No standard</p>	<p>19) 5 percent of the food cost will be used for local food products</p>

Attachment L

Bid Criteria

Criteria	Minimum Standard	Evidence/Document Requirement	Points
Financial Stability	Three years of profitable financial performance	Provide copies of company financial statements for past three years	5
Taste Test	Vendor demonstrates experience in physical meal preparation producing nutritious, good-tasting food	Qualified vendors will be invited to prepare examples of breakfast, lunch and dinner offerings to be evaluated by the Roses in Concrete scoring committee	10
Vended Meal Capabilities	Vendor demonstrates experience providing vended meals, has appropriate transportation in working order for meal deliveries	Transportation plan, equipment	10
K-12 Experience in the National School Lunch Program	A minimum of five (5) years in K-12 food service management, specifically National School Lunch and Breakfast Program	Documentation of experience as outlined in company history	10
References	Vendor must provide at least three customer references, 66% contract renewal rate	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.	10
Online Meal Ordering System	Vendor should have a no-cost software program that allows SFA to make weekly meal orders efficiently	Sample menu ordering included in response. Narrative around meal ordering process.	10
Healthy Food Standards	Vendor must be able to meet all healthy food standards outline in Attachment K with fresh meals delivered daily	Demonstration of ability to meet minimum requirements	10
Cost		Price per meal (breakfast, lunch, dinner) clearly articulated in Attachment E	35

Attachment M

School Site Data

School	Roses in Concrete
On-site contact	Leslye Salinas
Phone Number	(510)698-3794
Grades	K-8
Address	4551 Steele St., Oakland, CA 94619
Free/Reduced %	60%
SY17 Projected Enrollment	200
SY17 Operating Days	181
School Start Date	08/22/2016
School End Date	06/09/2017
Breakfast Start Time	7:50 am
Lunch Start Time	11:00 am
Snack Start Time	10:00 am
Requested Delivery Times	7:15 am Breakfast, 9:30 am Lunch, 9:30 am Snack
Breakfast Participation %	25%
Lunch Participation %	75%
Dinner Participation %	15%
Snack Participation %	100%

Attachment N

Sample Contact

**Agreement to Provide Food Service Management
Between XXX and Roses in Concrete**

Food Service Management Company:

School Food Authority:

I. Introduction

Roses in Concrete hereinafter referred to as the school food authority (SFA), enters into this Contract with XXXXX, 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 **XXXXXX**, and continue through **June 30, 2017**. 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.

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.

2. Payment Terms

- a. The FSMC shall submit monthly invoices by the 5th 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 Title 2, *Code of Federal Regulations (2 CFR)*, Part 200, as applicable. The SFA will pay invoices submitted by the FSMC within 60 days of the invoice date. 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.
- b. FSMC will invoice SFA by school, each month for the number of meals served. FSMC will be responsible for purchasing the food, conduct daily ordering for SFA based on average meal participation and manage the daily waste. Milk and all non-food items should be included in the fixed price. SFA will not be charged nor will it be responsible for the cost of food waste.
- c. SFA will be responsible for paying interest if payment is over 60 days and has passed audit. The interest accrued will be accounted for on the following months invoice. Late payment will result in accruing interest at a rate of 10% of invoice total. This interest will be accrued if payment is received after 60 days an invoice has passed audit.
- d. SFA shall make no payment to FSMC for meals that, in SFA determination, are spoiled or unwholesome at the time of delivery, do not meet detailed food component specifications as developed by SFA for the meal pattern, or do not otherwise meet the requirements of this contact (7 CFR Section 210.16[c][3]).

TCN shall invoice SFA at the following address:

Attn: Accounts Payable
Roses in Concrete

4551 Steele St.
Oakland, CA 94619

Payments from SFA to TCN shall be remitted to:

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.

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]).

The SFA shall make no payment to the FSMC for meals that, in the SFA's determination, are spoiled or unwholesome at the time of delivery, do not meet detailed food component specifications as developed by the SFA for the meal pattern, or do 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.

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.

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:

- 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][2] and [5])

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, sub-grant, or contract under a grant or sub-grant
- Any rights of copyright to which a grantee, sub-grantee, or a contractor purchases ownership with federal grant support

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

1. 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.
2. 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. Sanctions

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. 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.

S. 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 Child and Adult Care Food Program (CACFP) 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.)

T. 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 as applicable, 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.

U. 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.

V. 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.

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.

IV. Food Service Program

A. Food Service Management Company Responsibilities

- 1. The FSMC shall, to the maximum extent practicable, purchase domestic commodities or products (*7 CFR* Section 210.21[d][2]).

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 non-program meal and a la carte prices (7 *CFR*, sections 210.9[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[g]).
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 (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 by the FSMC preparing or serving meals at an SFA facility (7 *CFR* Section 210.16[a][7]).

V. 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.
10. The distributing agency, sub-distributing 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.
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.

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).

VI. Meal Responsibilities

A. The FSMC shall:

1. Serve meals on such days and at such times as requested by the SFA.
2. Offer free, reduced-price, and paid reimbursable meals to all eligible children through the SFA's food service program.
3. Provide meals through the SFA's food service program that meet the requirements as established in 7 *CFR* Part 210.

4. Provide meals for field trips that comply with USDA meal patterns when requested by Vendor one week in advance.
5. Provide the necessary plates, vessels, utensils and napkins in sufficient quantity for the number of meals ordered.
6. Provide to SFA no later than one (1) week prior to the end of each month, a monthly menu covering the meals to be served for the following month.

VII. Food Service Management Company Employees

- 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 4 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.

VIII. 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 (3) 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]).

- C. The FSMC shall not remove state or federally required records from the SFA premises upon contract termination.
- D. The terms of the contract between the SFA and FSMC shall include all provisions required under California Education Code Section 49073.1 regarding, among other things, the storage and use of student information.
- E. 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 200.333 through 200.337).

IX. Monitoring and Compliance

- A. The FSMC shall monitor the food service operation of the SFA 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:
 - 1. 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]).
 - 2. 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.
 - 3. 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 render its services. The SFA shall provide the FSMC with local telephone service. The SFA shall not be responsible for loss or damage to equipment owned by the FSMC and located on the SFA's premises.
- 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.
- 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; 7 *CFR* parts 210, 220, 225, 245, 250, 3016, and/or 3019; 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:
 1. 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>
 2. 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>
 3. [Executive Order 11738: http://www.epa.gov/isdc/eo11738.htm](http://www.epa.gov/isdc/eo11738.htm)
 4. 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. 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 must accompany each subsequent four (4) additional one-year renewals. 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-cwhsaa.htm>

In performance of this Contract, the FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards 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 ("cause"). The non-breaching party shall give the other party notice of such cause. If the cause is not remedied within 10 days, the non-breaching 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. 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. 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. 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be effective as of the day, month and year first written above.

Roses in Concrete

Name: _____

Signature: _____

Title: _____

Date: _____

Vendor XYZ

Name: _____

Signature: _____

Title: _____

Date: _____

Exhibit A
Scope of Work

I. Overview of Food Service Program

- A. Scale. Meals will be delivered and served to two separate points of service on the Roses in Concrete campus. The FSMC employs [to be decided by FSMC with input from SFA] persons who prepare and serve the meals to approximately 500 children at the serving site. The SFA will manage the POS.
- B. Vended Meals. The FSMC is to deliver pre-packaged meals in proper containers that meet all food safety standards. Meals are to be delivered with proper refrigeration, and be brought to serving temperature on site. Pre-packed utensils are to be provided for each meal. Each serving site is equipped with a re-thermal oven and refrigeration for that day's meals. There will be no cooking done on site. Each meal is to be accompanied by a transport record in addition to the meal production record.
- C. Financial Goals. The FSMC is to manage all food waste, and conduct the daily ordering for the SFA based on average meal participation. The FSMC is to invoice the SFA individually by school, each month for the number of meals served. The FSMC will be responsible for purchasing the food and managing the daily waste. Milk and all non-food items should be included in the fixed price. The SFA will not be charged nor will it be responsible for the cost of food waste.
- D. Management Goals. The FSMC is expected to follow all regulations of the NSLP and SBP, and also the Child and Adult Care Food Program (CACFP) in accordance with USDA and CDE guidelines. Daily meal production records and temperature logs (departure, arrival and service) are to be recorded and maintained on site in an organized manner. All meals are to follow the USDA meal pattern for the ages served at each site. FSMC staff are expected to be properly trained on all aspects of the Program requirements (Civil rights, non-discrimination, offer vs serve, food safety) prior to beginning service. Each staff member must obtain the Food Handlers License prior to handling food items and submit a copy of the license to the SFA. All FSMC staff are to treat all students with respect and maintain confidentiality when serving meals.
- E. National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program Participation:

	Annual Number of Meals
Breakfast	xxx
Lunch	xxx
Snack	xxx

These numbers are based on projected enrollment as of April, 1 for the 2016-17 school year. There is no guarantee these numbers will be met.

	Roses in Concrete
Address	4551 Steele St., Oakland, CA 94619
Enrollment	500
Breakfast Serving Time	8:00 - 8:40 AM
Lunch Serving Time	11:40 AM – 1:00 PM
Snack/Supper Serving Time	TBD

II. Description of FSMC Responsibilities

Responsibilities of the FSMC shall include:

A. Purchasing of Supplies for the Food Service Program

- 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 authorized by the SFA, the FSMC shall purchase food used by the food service operation and 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 provide:

- 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 21-day cycle menu for the first 21 days of meal service; thereafter, the FSMC may only make changes with the SFA's approval (7 *CFR* 210.16[b][1])
- 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

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 5th 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

- The SFA will provide the required staff to manage the 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

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* parts 225 and 230 as applicable.

All costs are based on the average daily participation of students listed above enrolled in Roses in Concrete SFA and XX 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	TBD	TBD	TBD
Lunch	TBD	TBD	TBD
Dinner	TBD	TBD	TBD
Snacks	TBD	TBD	TBD
TOTAL	TBD	TBD	TBD