

## CHILD NUTRITION PROGRAMS

Summit School District  
SCHOOL FOOD AUTHORITY

### FOOD SERVICE MANAGEMENT COMPANY

### REQUEST FOR PROPOSAL

AND

### CONTRACT

Colorado Department of Education

Office of School Nutrition

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Website [http://www.cde.state.co.us/index\\_nutrition.htm](http://www.cde.state.co.us/index_nutrition.htm)

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Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. **fax:**  
(833) 256-1665 or (202) 690-7442; or
3. **email:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

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## I. INTRODUCTION

This document contains a Request for Proposal for providing food service management services for Summit School District School Food Authorities' (SFA) participation in the United States Department of Agriculture's (USDA) Child Nutrition Programs (CNP) and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document, the offeror's proposal, and approved amendments or addendums to this document shall constitute the contract between the offeror and the School Food Authority.

The SFA has full responsibility for ensuring that the terms of the contract are fulfilled. SFAs must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract. The Colorado Department of Education (CDE) is never a party to any contract between a SFA and a food service management company (FSMC). CDE has no involvement with the enforcement of this contract; however, payment can be denied for all meals received / purchased under an invalid contract.

The SFA alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the SFA of any contractual responsibilities under its contracts. USDA will not substitute its judgment for that of the SFA unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

## II. REQUEST FOR PROPOSAL / INSTRUCTIONS

### **A. Legal Notice**

Notice is hereby given that Summit School District School Food Authority, hereinafter referred to as the SFA, intends to examine alternatives to its present food service program, including self-preparation.

No intent should be construed from this legal notice that SFA intends to enter into a contract with any party for alternative food service unless, in the sole opinion of SFA, it is in SFA's best interest to do so.

All costs involved in submitting a response to this Request for Proposal (RFP) shall be borne in full by the interested party.

SFA reserves the right to accept any proposal which it determines most favorable to the interest of SFA and to reject any or all proposals or any portion of any proposal submitted which, in SFA's opinion, is not in the best interest of SFA.

The Offeror to this RFP will be referred to as the FSMC, and any contract that may arise from this Request for Proposal (RFP) will be between the FSMC and the SFA.

### **B. Request for Proposal**

1. SFA will consider a Proposal for (select one)

Fixed Per Meal Fee Proposal	
Cost Reimbursable Proposal	x

2. In accepting proposals, Summit School District SFA reserves the right to reject any and all proposals and to waive any minor informality in order to take the action which it deems to be in the best interest of SFA.
3. Offerors must submit a complete response to this Request for Proposal (RFP), including all certifications, for consideration as a responsive proposal.
4. Contracts entered into on a basis of submitted proposals are revocable if contrary to law.
5. See Standard Terms and Conditions herein below.

### **C. Procurement Method**

1. Procurement Method will be the Competitive Proposal which differs from the traditional sealed bid method with the application of the following requirements:
  - a. The CDE Template is required for proposals. The SFA must incorporate all CDE required changes to its solicitation documents before issuing those documents.
  - b. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
  - c. Proposals will be solicited from an adequate number of qualified sources;
  - d. SFA must have a written method for conducting technical evaluations of the proposals received and for selecting awardees;
  - e. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered;
  - f. Awards will be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
2. Discussions for the purpose of clarification may be conducted with responsible offerors who submit proposals determined to be considered for award selection, to assure full understanding of all terms and conditions of the RFP response and Contract requirements following state regulations and SFA policy.
3. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
4. All procurement transactions shall be conducted in a manner that provides maximum open and free competition consistent with 2 CFR § 200.319. Some of the situations considered to be restrictive of competition include but are not limited to: placing unreasonable requirements on firms in order for them to qualify to do business, requiring unnecessary experience and excessive bonding, Noncompetitive pricing practices between firms or between affiliated companies, noncompetitive awards to consultants that are on retainer contracts, organizational conflicts of interest, specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and any arbitrary action in the procurement process.
5. The SFA must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. This applies if the SFA has a parent, affiliate, or subsidiary organization that is not a state, local government or Indian tribe.
6. SFA will maintain records sufficient to detail the significant history of the procurement. These records must include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

### **D. Pre-Proposal Meeting / Timeline**

A meeting with interested offerors to review the specifications, to clarify any questions, and for a walkthrough of the facilities with school officials will be held virtually or in-person at:

1. Date/ Time: April 13, 2023 10:30 am – 12:30 pm
2. Location: Summit Admin Building, 150 School Drive, Frisco, CO
3. Attendance is *required*.

4. Vendor presentations *will not* be scheduled at this time.

**E. Proposal Submission and Award**

1. SFA must use this CDE prototype FSMC Request for Proposal and Contract. SFAs who do not complete the required procurement procedures cannot be approved for participation in the USDA reimbursement programs.
2. Two copies of Competitive Proposals are to be submitted to:  
Name of SFA Contact: Kara Drake  
Mailing Address: PO Box 7 Frisco, CO 80443  
Physical Address: 150 School Drive  
City: Frisco  
State/Zip: CO 80443  
Email: [kara.drake@summitk12.org](mailto:kara.drake@summitk12.org) and [krissy.moulton@summitk12.org](mailto:krissy.moulton@summitk12.org)
3. Proposals must be submitted by:
  - a. Time: 1:00 PM (*proposals will not be accepted after this time*)
  - b. Date: April 28, 2023
  - c. Location: Summit Administration Offices, 150 School Drive, Frisco, CO 80443
  - d. Proposal submitted marked "**Food Service Management Proposal, \_2024-SSD**".
4. Bonding requirements (*required for the Summer Food Service Program*). The FSMC shall obtain bid or performance bonds in accordance with 7CFR 225.15(m)(7):
  - a. Bid guarantee (required when the entire value of the contract exceeds \$250,000):
    - i. Offeror shall submit with his or her bid guarantee equivalent to five percent (5%) of the bid price.
    - ii. Shall be in the form of a firm commitment only from surety companies listed in the current Department of the Treasury Circular 570. No sponsor or State agency shall allow food service management companies to post any "alternative" forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts.
    - iii. Bid guarantees other than bid bonds will be returned:
      - a. to unsuccessful offerors as soon as practicable after the opening of proposals and
      - b. to the successful Offeror upon execution of such further contractual documents (i.e., insurance coverage) and bonds as may be required by the bid.
  - b. Performance guarantee (required when the entire value of the contract exceeds \$250,000):
    - i. FSMC must obtain a performance bond in the amount of \$212,759 (not less than 10 percent nor more than 25 percent of the value of the Contract) which shall be in the form of a firm commitment surety companies listed in the current Department of the Treasury Circular 570. No sponsor or State agency shall allow food service management companies to post any "alternative" forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts. Performance bonds for the successful Offeror shall be held for the duration of the Contract.
5. To be considered, each offeror must submit a complete response to this solicitation **using the forms provided**.
  - a. No other documents submitted with the RFP and Contract will affect the Contract provisions, and **there may be no modifications to the RFP and Contract language**.
  - b. In the event that Offeror modifies, revises, or changes the RFP and/or Contract in any manner, SFA may reject the offer as non-responsive.
  - c. Section P offers SFA the opportunity to include any additional / needed services.

6. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered (2 CFR 200.320)
  - a. A responsible offeror is one who's financial, technical, and other resources indicate an ability to perform the services required.
  - b. Offeror shall submit for consideration such records of work and further evidence as may be required by the SFA's Board of Trustees.
  - c. Failure to furnish such records and evidence, or the inclusion of any false or misleading information therein shall be sufficient cause for the rejection of the proposal or termination of any subsequent contract.
  - d. The qualification data shall be submitted by each offeror along with the proposal, and shall include the following:
    - i. Offeror must be incorporated or licensed to do business in the State of Colorado and must be registered with the Colorado Department of Education (CDE) Office of School Nutrition (OSN).
    - ii. Annual reports or financial statements for the past fiscal year, certified by a licensed public accountant, must be included in the pre-qualification data.
    - iii. Information that offeror is doing business with like school systems and is familiar with the regulations pertaining to operations in such environments, if applicable.
7. Offerors or their authorized representatives must fully inform themselves as to the conditions, requirements, and specifications before submitting proposals; failure to do so will be at the offeror's own risk who cannot secure relief on plea of error.
8. Any person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by the SFA in conducting a procurement under the USDA entitlement programs specified in 2 CFR 200.319 shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used.
9. The SFA is not liable for any cost incurred by the offeror in submitting a proposal. **Paying the FSMC from Child Nutrition Program (CNP) funds is prohibited until after July 1, 2023 and the Contract is approved by CDE and signed by the SFA.**
10. If additional information is requested, please contact Kara Drake at kara.drake@summitk12.org. Any additional information provided to one offeror will be available to all. **Please submit requests via e-mail only.** In order to facilitate prompt sharing of information, **no phone calls will be accepted.**
11. **Award Criteria:**
  - a. Proposals will be evaluated by the SFA committee based on the offer per meal/meal equivalent and the criteria, categories and assigned weights as stated herein below (to the extent applicable).
  - b. Committee members must consist of SFA employees familiar with the regulations and requirements of the child nutrition programs.
  - c. If a committee member is an agent for, employee of or in any manner associated with a FSMC, that FSMC may not participate in the RFP and subsequent contract or comply with the conflict of interest policies of the SFA or district.
  - d. Each area of the award criteria must be addressed in detail in the Proposal.
  - e. SFA will maintain records sufficient to detail the significant history of a procurement to include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

## 12. Weight Criteria

- a. SFA must determine in advance what percentage (total of 100 points which equals 100%) each category below will be given when comparing proposals.
- b. SFA may insert additional categories if needed.
- c. SFA may not include as a category: prior experience with SFA as it would violate USDA's free and open competition regulation for procurement.

Points	Criteria
25	Cost (must be primary consideration)
20	Service Capability Plan (Proposed food service team such as Director and describes FSMC's ability to provide services as stated in the RFP)
20	Experience, References with like school systems and familiarity with regulations pertaining to such operations
10	Financial Condition/Stability, Business Practices
5	Accounting and Reporting Systems
5	Personnel Management
5	Innovation
5	Promotion of the School Food Service Program
5	Involvement of Students, Staff, and Patrons
	Other
100	TOTAL

**F. Late Proposals**

Any proposal submitted after the time specified for receipt will not be considered and will be returned unopened.

**G. Altering, Amending or Withdrawing Proposal**

No proposal may be altered, amended or withdrawn after the specified time for opening proposals.

**H. Calculation of Time**

Periods of time, stated as a number of days, shall be calendar days.

**I. Firm Offer**

1. By submitting a response to this Request for Proposal, and if such response is not withdrawn prior to the time for opening proposals arrives, offeror understands and agrees that they are making a firm offer to enter into a contract, which may be accepted by SFA and which will result in a binding contract.
2. Such proposal is irrevocable for period of ninety (90) days after the time for opening of proposal has passed. \_\_\_\_\_ **(FSMC must initial and date to show agreement)**

**J. Final Contract**

A duplicate copy, preferably electronic, of the submitted proposal and all required documents listed below must be provided to the SFA for submission to CDE. The complete contract to submit to CDE for approval includes:

1. All documents included by the SFA in the CDE approved RFP template with the FSMC responses
2. Any additional negotiations that have been completed and terms that are included in additional documents, including guaranty, future financing of equipment or IT systems that are not included in the CDE RFP/contract template
3. All documents submitted by the FSMC that have been mutually agreed upon by both parties (i.e. worksheets, attachments submitted by the FSMC in the proposal, and operating cost sheets) and identified in Section R, paragraph 4 of the Standard Terms and Conditions.

4. All of the above terms need to be added to the original CDE approved RFP/ contract and signed by all parties.

### III. STANDARD TERMS AND CONDITIONS

#### A. Definitions

The following definitions shall apply within this document and its attachments:

1. "Accounting Periods" means first day of the month through the last day of the month.
2. "Allowable Cost" means costs that are allowable under 2 CFR 200 Subpart E, as applicable.
3. "Applicable Credit" refers to the meaning established in 2 CFR 200.406.
4. "Buy American"—The term 'domestic commodity or product' means an agricultural commodity that is produced in the United States; and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.
5. "Charge" means any charge for an Allowable Cost that is:
  - i. Incurred by FSMC in providing the goods and services that are identified in SFA's Food Service Budget;
  - ii. Not provided for in the General and Administrative Expense Fee; and
  - iii. Established and reasonably allocated to SFA in accordance with the Methodology for Allocated Costs, which is attached to this Contract as "Exhibit F", and fully incorporated herein by reference.
6. "Child Nutrition Program (CNP)" means the USDA Child Nutrition Programs in which SFA participates
7. "Colorado Open Records Act (CORA) (C.R.S. 24-72-200.1 Et Seq)": It is declared to be the public policy of this state that all public records shall be open for inspection by any person at reasonable times, or as otherwise specifically provided by law.
8. "Contract" means this RFP and Contract, the exhibits attached to this RFP and Contract and FSMC's Proposal.
9. "Cost-reimbursable" contract means a contract that provides for payment of incurred costs to the extent prescribed in the contract, with or without a fixed fee.
10. "CDE" means the Colorado Department of Education.
11. "CDHS" means the Colorado Department of Human Services (Food Distribution).
12. "Direct Cost" means any Allowable Cost that is:
  - i. incurred by FSMC in providing the goods and services that are identified in SFA's Food Service Budget; and
  - ii. Reasonably necessary in order for FSMC to perform the Services hereunder. The term "Direct Cost" does not include any cost allocated to SFA as Charges, the General and Administrative Expense Fee, or any Management Fees.
13. "Effective Date" means **July 1, 2023**.
14. "Fixed Fee" Contracts that provide for fixed fees such as those that provide for management fees established on a per meal basis are allowed. The offer amount should be based on assumption that no donated USDA Foods will be available for use and includes all expected rebates, discounts and other applicable credits.
15. "FSMC's Proposal" means Food Service Management Company's response to the RFP and Contract.



16. "General and Administrative Expense Fee" means FSMC's fee for those services provided at SFA's Food Service Locations, listed in Section J Part 5. Only actual, net, documented costs may be charged to SFA for any charges outside the General and Administrative Expense Fee.
17. "Meal Equivalent" In a fixed fee per meal contract, the FSMC is paid on the basis of the number of meals served. In order for the FSMC to be paid for non-meal food service, non-program meal sales activity and revenues are converted into a specific number of reimbursable lunches. The conversion of non-meal activity into an equitable number of meals is completed by dividing the total of cash receipts, other than from sales of NSLP and SBP meals, ACSP and SFSP meals, by the current equivalency factor. The equivalency factor for the Meal Equivalent shall remain fixed for the term of the Contract and all renewals and is in Section: J Financial Terms.
18. Healthy Hunger Free kids Act of 2010: (HHFKA)The current Child Nutrition Program Reauthorization is due for reauthorization and is pending.
19. "Non-profit School Food Service Account" means the restricted account in which all of the revenue from all food service operations conducted by the SFA principally for the benefit of school children is retained and used only for the operation or improvement of the nonprofit school food service.
20. Procurement standards. SFA may use its own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in 2 CFR 200 Part D and 7 CFR 200.21. SFA procedures must include a written code of standards of conduct meeting the minimum standards of 2 CFR 200.318, as applicable. No employee, officer or agent of the SFA shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards
21. "Program(s)" or "Child Nutrition Program (CNP) (s)" means the USDA Child Nutrition Programs in which SFA participates.
22. "Program Funds" means all funds that are required to be deposited into the Non-profit School Food Service Account.
23. "Proposal" means Food Service Management Company's response to the RFP and Contract.
24. "RFP" means SFA's Request for Proposal and Contract, and all of its attachments.
25. "Services" means the services and responsibilities of FSMC as described in this Contract, including any additional services described in Section P of this Contract.
26. "SFA" or "School Food Authority" as defined in 7CFR § 210.2.
27. "SFA's Food Service Budget" means the Food Service Budget for the Current School Year, which is attached to this Contract as "Exhibit C" and fully incorporated herein.
28. "SFA's Food Service Facilities" means areas, improvements, personal property, and facilities made available by SFA to FSMC for the provision of the food services as described herein.
29. "SFA's Food Service Program" means the preparation and service of food to SFA's students, staff, employees and authorized visitors, including the following programs: *National School Lunch Program (NSLP), School Breakfast Program (SBP), After School Care Snack Program (ACSP), Summer Food Service Program (SFSP), Fresh Fruit and Vegetable Program (FFVP), and a la carte food service.*
30. "SFA's Food Service Location(s)" means the schools or other locations where Program meals are served to SFA's schoolchildren.

31. "Summer Food Service Program (SFSP)" means either the Summer Food Service Program or the Seamless Summer Option identified herein, and in which SFA participates.
32. "USDA" means United States Department of Agriculture, Food and Nutrition Service.

**B. Scope and Purpose**

- 1) Duration of Contract. Unless it is terminated in accordance with Section L, this Contract will be in effect for a period of one year **commencing July 1, 2023, and terminating June 30, 2024**, and may be renewed for up to four additional terms of one year each upon mutual agreement between SFA and FSMC, consistent with Article X, Section 20 of the Colorado Constitution.
- 2) During the term of this Contract, FSMC shall operate SFA's Food Service Program in conformance with SFA's agreement with the CDE School Nutrition Unit.
- 3) FSMC shall have the exclusive right to operate the programs specified by SFA in Exhibit A: Site Information, which is attached to this Contract and fully incorporated herein.
- 4) If a program is planned / added later (i.e., a breakfast program) which is beyond the scope or original intent of this RFP/Contract or if a proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold the appropriate procurement procedures must be followed, including a new competitive solicitation. The SFA must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. Results must be reviewed by CDE.
- 5) The FSMC shall
  - a) Be an independent contractor and not an employee of the SFA. The employees of the FSMC are not employees of the SFA.
  - b) Maintain such records as the SFA will need to support its Claim for Reimbursement under this part, and shall, at minimum, report claim information to the SFA promptly at the end of each month. Such records shall be made available to the school food authority, upon request, and shall be retained in accordance with 7 CFR §210.23(c).
  - c) Implement an accurate point of service count using the counting system provided by SFA in its application to participate in the Child Nutrition Programs and approved by CDE for all programs listed in Exhibit A: Site Information, herein, as required under USDA regulations. Counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under USDA Regulation 7 CFR §245.8.
  - d) Operate SFA's Food Service Program and shall include performance by FSMC of all the Services, described in this Contract, for the benefit of SFA's students, faculty and staff.
  - e) Maintain all records necessary, in accordance with applicable regulations, for SFA, CDE and USDA to complete required monitoring activities and must make said records available to SFA, CDE, and USDA upon request for the purpose of auditing, examination and review. (7 CFR § 210.16(c)(1))
  - f) Cooperate with SFA in promoting nutrition education, health and wellness policies and coordinating SFA's Food Service Program with classroom instruction.
  - g) Comply with applicable federal, state and local laws, rules and regulations, policies, and instructions of CDE and USDA and any additions or amendments thereto, including USDA Regulation 7 CFR Parts 210, 215, 220, 225, 226, 245, 250, if applicable; OMB Circulars, 2 CFR 200, HB 22-114, and the other laws described in the "Contract Provisions for SFA Contracts under CNP Awards," which is attached to this Contract as "Exhibit G" and fully incorporated herein by reference.
  - h) Comply with all SFA building rules and regulations.

- i) Provide additional food service such as banquets, parties, and refreshments for meetings as requested by SFA as follows:
    - i) SFA or requesting organization will be billed for the actual cost of food, supplies, labor, and FSMC's overhead and administrative expenses if applicable to providing such service.
    - ii) USDA Foods shall not be used for these special functions unless SFA's students will be primary beneficiaries.
- 6) SFA shall be responsible for:
- a) Signature authority for the application/contract, free and reduced-price policy statement, and Programs indicated in Exhibit A: Site Information, herein, and the monthly claim for reimbursement. (7 CFR §210.9(a) and (b) and 7 CFR §210.16(a)(5))
  - b) Development and distribution of the parent letter and Application for Free and Reduced-Price Meals and/or Free Milk and participating in Direct Certification.
  - c) Determination of eligibility for free or reduced-price meals and free milk, if applicable.
  - d) Conducting any hearings related to determinations of free and reduced-price eligibility.
  - e) Verification of applications for Free and Reduced-Price Meals as required by USDA regulations.
  - f) Establishment and maintenance of the free and reduced-price meals' eligibility roster. (7 CFR § 210.7(c), 7 CFR § 210.9(b) (18) and 7 CFR § 245.6(e)).
  - g) Conduct of SFA's Food Program
  - h) Supervision of the food service operations in such manner as will ensure compliance with all applicable statutes, regulations, rules, and policies including regulations, rules, and policies of CDE and USDA regarding the Child Nutrition Programs.
  - i) Establishing all selling prices, including price adjustments, for all reimbursable and non-reimbursable meals/milk and a la carte (including vending, adult meals, contract meals, and catering) prices. (Exception: Non-pricing programs need not establish a selling price for reimbursable meals/milk.)
  - j) Control of the Non-profit School Food Service Account and overall financial responsibility for SFA's Food Service Program, as well as the quality, extent and general nature of the food service.
  - k) Ensuring the resolution of Program reviews and audit findings. FSMC shall fully cooperate with SFA in resolving review and audit issues. FSMC shall indemnify SFA for any fiscal action, claims, losses or damages, fault, fraud, required repayment or restoration of funds, including reasonable attorney's fees incurred in defending or resolving such issues, that results from FSMC's intentional or negligent acts.
  - l) Monitoring the food service operation of FSMC through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations. (7 CFR § 210.16(a)(3))
  - m) Conducting an on-site review of the counting and claiming system at each SFA Food Service Location no later than February 1 of each year if there is more than one SFA Food Service Location.
  - n) The counting and claiming system, including compliance with required internal control procedures. (7 CFR § 210.8(a)(1))
  - o) Ensuring that CDE has reviewed and approved the contract terms and that the SFA has incorporated all CDE required changes into the contract or amendment before any contract or amendment to an existing FSMC contract is executed.
  - p) Ensure that all federally donated foods received by the SFA and made available to the FSMC accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein.

- q) Not directly or indirectly restricting the sale or marketing of fluid milk (§210.10(d)(4)) at any time or in any place on school premises or at any school-sponsored event.
  - r) Maintaining a contract administration system which ensures that the FSMC performs in accordance with the terms, conditions, and specifications of their contract.
- 7) SFA and FSMC agree that this Contract does not permit all income and expenses to accrue to the FSMC and is neither a *cost-plus-a-percentage-of-income* nor a *cost-plus-a-percentage-of-cost* contract as required under United States Department of Agriculture (USDA) Regulations 7 CFR §210.16(c) and 2 CFR 200.
  - 8) Payments on any claim shall not preclude SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this Contract and proposal specifications.
  - 9) SFA may request of FSMC additional food service programs; however, the SFA reserves the right, at its sole discretion, to sell or dispense food or beverages, provided such use does not interfere with the operation of the Child Nutrition Programs. Any food and beverages sold in addition to the reimbursable meals must meet USDA competitive foods regulation 7 CFR 210.11 and CO Competitive Food regulations and the CO Healthy Beverages Policy.
  - 10) Any change to the scope of services to be provided by FSMC that is beyond the scope or original intent of this RFP/Contract or involves a total increase of  $\geq 10\%$  of the total contract value must be rebid.
  - 11) Any changes to the terms or conditions of this Contract, which are required by Federal or State law or rule, or changes to Federal or State laws or rules, are automatically incorporated herein, effective as of the date specified in such law or rule.
  - 12) Any changes made by the SFA or FSMC to a CDE pre-approved prototype contract or CDE approved contract term must be approved in writing by CDE before the contract is executed. When requested, the SFA must submit all procurement documents, including responses submitted by potential contractors, to CDE, by the due date established by CDE
  - 13) Gifts from FSMC: The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, nor anything of monetary value from contractors nor potential contractors in accordance with all laws, regulations and policies. (CO. Const. Art. XXIX, Section 3; 2 CFR 200.318) To the extent permissible under federal, state, or local laws, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards.
  - 14) Summer Food Service Program: The RFP requires FSMC to provide management services for SFA's SFSP or Seamless Summer option (SSO), the parties agree to operate the Program according to federal, state, and local regulations.
  - 15) Fresh Fruit and Vegetable Program (FFVP): (if applicable) In the event that FSMC provides management services for the FFVP at any of SFA's Food Service Locations, SFA and FSMC agree to operate the FFVP in accordance with the requirements of Section 19 of the National School Lunch Act, all applicable regulations and policies, and the FFVP Handbook for Schools. SFA and FSMC further agree that not more than 10% of the total funds awarded to the school and/or schools for operation of the FFVP may be used for administrative expenses.

### **C. Food Service**

- 1) FSMC shall:
  - a) Serve meals on such days and at such times as requested by the SFA that meet all USDA and Colorado meal pattern requirements <https://www.fns.usda.gov/school-meals/child-nutrition-programs>, [https://fns-prod.azureedge.net/sites/default/files/resource-files/USDA\\_SFSP\\_NutritionGuide.pdf](https://fns-prod.azureedge.net/sites/default/files/resource-files/USDA_SFSP_NutritionGuide.pdf), and <http://www.cde.state.co.us/nutrition/nutrimenuplanning>

- b) Offer free, reduced-price, and full-price reimbursable meals to all eligible children participating in SFA's Food Service Programs indicated herein.
  - c) In order to offer a la carte food service, the FSMC must agree to offer free, reduced-price, and full-price reimbursable meals to all eligible children.
  - d) Promote maximum participation in the Programs.
  - e) Provide specified types of service in the schools/sites listed in Exhibit A.
  - f) All food and beverages other than meals reimbursed under programs available for sale to students on the School campus during the School day must be authorized by the SFA and only at the times and places designated by the SFA. All foods sold must meet the nutrition standards specified in 7 CFR 210.11 and allowed under Colorado Competitive Rules (2202-R-201) and Healthy Beverages Rules (1 CCR 301-79). These standards apply to items as packaged and served to students.
  - g) Support the SFA's compliance with the federal Child Nutrition Reauthorization (CNR) which authorizes all of the federal child nutrition programs, including the School Breakfast, National School Lunch, Child and Adult Care Food, Summer Food Service, and the Fresh Fruit and Vegetable Programs and WIC. The current law, the Healthy, Hunger-Free Kids Act of 2010 was due for reauthorization in 2015 but has not been released.
- 2) SFA shall retain control of the quality, extent, and general nature of the food service
- 3) Special Dietary Needs
- a) FSMC and SFA must follow current federal and state regulations regarding providing for special dietary needs for enrolled students. Additional information is available at <http://www.cde.state.co.us/nutrition/nutriSpecDietaryNeeds> and <https://www.fns.usda.gov/school-meals/faqs>.
  - b) Exceptions for disability reasons: FSMC must make modifications in meals and afterschool snacks for students who are considered to have a disability under 7 CFR 15b.3 and whose disability restricts their diet. Modifications must be made on a case by case basis. Meal modifications that fall outside the required meal pattern can be made when supported by a written medical statement. Modifications that can be made within the required meal pattern at the discretion of the FSMC and SFA.
  - c) Exceptions for non-disability reasons: FSMC, with instructions from the SFA, may make modifications for students without disabilities who cannot consume the regular lunch or afterschool snack because of ethical, cultural, religious reasons or other preferences. Modifications made must for dietary preferences must meet meal pattern requirements established under 7 CFR § 210.10 and 7 CFR § 220.
  - d) Meal modification approval: The approval for meal modifications must remain in effect until the medical authority or the student's parent or legal guardian revokes such request, or until such time as the FSMC and SFA changes their meal modifications policy.
  - e) Required Documentation: Information about meal modifications must be included in the following documents: (1) medical statements or preference forms, (2) production records (3) recipes (4) HACCP plans and (5) meal counting and claiming tracking. Production records should indicate the meal substitutions/accommodations and the number of meal served for special diets.
- 4) USDA Fresh Fruit and Vegetable Program (FFVP) (If applicable)
- FSMC:
- a) Documents and tracks FFVP expenses separately and makes this documentation easily accessible for the SFA to review and submit an accurate claim.
  - b) Time certification of FFVP Labor time is required.
  - c) Documentation must clearly show allocation of costs charged to the FFVP, i.e. specific labor time charges, actual costs of fresh fruits and vegetables, administrative fees that do not exceed 10% of the overall grant.

- d) Follows all FFVP polices and rules to guarantee the program is operated in compliance with FNS standards.
- e) Develops cycle menu for FFVP for participating schools. It is recommended that, including portion sizes are included in the proposed menu cycle.

SFA:

- a) Will regularly monitor FSMC compliance with FFVP requirements.
- b) Monitor all FFVP expense documentation from FSMC for compliance with the contract and regulations, prior to submitting FFVP claim.

**D. Use of Advisory Group/Menus**

- 1) SFA shall establish an advisory board composed of parents, teachers, and students to assist in menu planning (7 CFR 210.16(a)(8)). The final rule, Local School Wellness Policy Implementation under the Healthy, Hunger-Free Kids Act of 2010, is available at <http://www.cde.state.co.us/nutrition/7cfrparts201and220localschoolwellnesspolicyfinalrule>.
- 2) The SFAs with no capability to prepare a cycle menu may, with CDE approval, require that each FSMC include a 21-day cycle menu, developed in accordance with the provisions of 7 CFR §210.10, with its bid or proposal. Source of cycle menu must be noted on the RFP cycle menu.
- 3) The 21-day cycle menu developed in accordance with the provisions of 7 CFR §210.10, will be used as a standard for the purpose of basing bids or estimating average cost per meal.
- 4) SFA shall approve the menus no later than two weeks prior to service. 7 CFR §210.16
- 5) FSMC:
  - a) Shall serve meals that follow the 21-day menu cycles that meet Child Nutrition Program requirements and food specifications contained in Exhibits B and E, attached to this Contract.
  - b) Follows approved 21-day menu cycle and Meal Specifications for the NSLP, SBP, After School Care Snack Program, Fresh Fruit and Vegetable Program, the SFSP and a la carte.
  - c) May not change or vary the menus after the first menu cycle for the NSLP, SBP, After School Care Snack Program, SFSP, FFVP or a la carte items without written approval of SFA.
  - d) Shall justify and document in writing all requests for any changes or variances for substitutions to SFA menu of lower quality food items.
  - e) Maintains documentation for substitutions and justification of lower quality food items for the records retention period applicable to food production records and documentation is available to SFA, CDE and USDA for review upon request. (7 CFR 210.16(b)(1))
  - f) Complies with SFA's local wellness policy.
  - g) Complies with all state and local laws that affect school meal preparation and/or service.
  - h) Meal Specifications provided shall include:
    - i) Recipes for each menu item that includes total yield, portion size, ingredients and all USDA required nutrient information.
    - ii) Copies of these recipes shall be kept on file at SFA.
    - iii) Identity of all branded items that may be used in the meal; and
    - iv) Grade, style and condition of each food item and other information that indicates the acceptable level of quality for each food item as applicable.
    - v) Detailed Meal Specification identified for the 9<sup>th</sup> day in the NSLP menu cycle.

**E. Purchases**

<b>Cost Reimbursable Contracts Only:</b>
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<p>1. If FSMC makes purchases that are being charged to SFA under a cost- reimbursable contract or under Section P of this Contract:</p> <ul style="list-style-type: none"> <li>a) FSMC and FSMC subsidiaries and affiliated organizations may not serve as a vendor or 3<sup>rd</sup> party or agent.</li> <li>b) Prices charged to the SFA must be reasonable, necessary, allocable. Allowable costs will be paid from the nonprofit school food service account to the FSMC <b>net</b> of all discounts, rebates and other Applicable Credits accruing to or received by the FSMC or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the SFA 7 CFR §210.21(f)(1)(i).</li> <li>c) Any silence, absence or omission from Contract document specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be purchased and used.</li> </ul>
<p>2. <u>SFA shall</u> document that:</p> <ul style="list-style-type: none"> <li>a) FSMC fully discloses all discounts, rebates, allowable, Applicable Credits, allowances, and track all FFVP expenses incentives received by the FSMC and</li> <li>b) FSMC returns to the SFA the full amount of the discount, rebate, or Applicable Credit that is received based on the purchases made on behalf of SFA.</li> </ul>
<p>3. <u>FSMC must:</u></p> <ul style="list-style-type: none"> <li>a) determine its allowable costs be made in compliance with the applicable USDA and Programs regulations, 2 CFR 200 Subpart E and OMB cost circulars.</li> <li>b) separately identify, for each cost submitted for payment to the SFA, the amount of an Allowable Cost and the amount that is unallowable and can be paid from Fund 21.</li> <li>c) exclude all unallowable costs from its billing documents.</li> <li>d) certify that: <ul style="list-style-type: none"> <li>i) Only allowable costs are submitted for payment and that determination of its allowable costs are made in compliance with the applicable USDA, CNP regulations, 2 CFR 200 and Colorado regulations</li> <li>ii) Records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification.</li> </ul> </li> <li>e) Identify monthly the amount of each discount, rebate and other applicable credit on bills and invoices presented to SFA for payment and individually identify the amount as a discount, rebate, or if other applicable credits, the nature of the credit. CDE must approve less frequent reporting.</li> <li>f) Maintain documentation easily accessible for SFA or CDE, review of costs and discounts, rebates, and other Applicable Credits consistent with federal, state and local regulations, and shall furnish such documentation upon request to the SFA, or state or federal representatives or auditors under a cost-reimbursable contract.</li> <li>g) Provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items</li> </ul>
<p><b>FSMC must state method of reporting all rebates, discounts, allowances, and credits here:</b></p>
<p><b>Agreed upon timeframe for all discounts, rebates, allowances, and incentives must be returned to SFA beneficial to SFA, no less than annually:</b></p>

The following applies to all FSMC contracts:

1. Buy American: SFA and FSMC will comply with the Buy American provision for contracts that involve the purchase of food. As required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d).
  - a. The SFA participates in the NSLP and SBP and is required to use the nonprofit food service funds, to the maximum extent practical, 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 using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d).
  - b. Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request.
  - c. To be considered for the alternative or exception, FSMC must submit request in writing to SFA and be approved. Approval will be retained with purchase records. The request must include the:
    - i. Alternative substitute (s) that are domestic and meet the required specifications:
      1. Price of the domestic food alternative substitute (s); and
      2. Availability of the domestic alternative substitute (s) in relation to the quantity ordered.
    - ii. Reason for exception: limited/lack of availability or price (include price):
      1. Price of the domestic food product; and
      2. Price of the non-domestic product that meets the required specification of the domestic product.

#### **F. USDA Foods**

1. SFA shall:
  - a) Retain title to all USDA Foods.
  - b) Maintain records relating to the use of donated foods:
    - i) The donated foods and processed end products received and provided to the FSMC for use in the SFA’s food service.
    - ii) Documentation that FSMC has credited the SFA for the value of all USDA Foods received for use in SFA’s meal service in the school year. (7 CFR § 250.51(a)) including the value of donated foods contained in processed end products.
    - iii) The actual donated food values used in crediting.
  - c) Maintain responsibility for procuring processing agreements, private storage facilities, or any aspect of financial management relating to USDA Foods. 7CFR250.15)
  - d) Assure that the maximum amount of USDA Foods are received and utilized by FSMC. (7 CFR § 210.9(b)(15))
  - e) Consult with the FSMC in the selection of USDA Foods; however, the final determination as to the acceptance of USDA Foods must be made by the SFA.
  - f) Review requirements for the SFA
    - i) The SFA must ensure that the FSMC is in compliance with the requirements of this part through its monitoring of the food service operation, as required in 7 CFR parts 210, 225, or 226, as applicable.
    - ii) Conduct a reconciliation at least annually (and upon termination of the contract) to ensure that the FSMC has credited it for the value of all donated foods received for use in the SFA's food service in the school or fiscal year, including, in accordance with the requirements in §250.51(a), the value of donated foods contained in processed end products.
2. FSMC:
  - a) Will conduct all activities relating to USDA Foods for which it is responsible in accordance with 7 CFR Parts 250, 210, 220, 225 and 226, as applicable. These activities may include: preparing and serving meals; ordering or selection of donated foods, in coordination with the SFA, storage and



inventory management of donated foods, in accordance with §250.52; and payment of processing fees or submittal of refund requests to a processor on behalf of the SFA , or remittance of refunds for the value of donated foods in processed end products to the SFA.

- i) Vendors processing USDA Foods at a commercial facility that is not a part of the contracted SFA are required to follow all rules pertaining to 7 CFR 250 Part C, including but not limited to having an active processing agreement.
- b) Must use all donated foods received for use by the SFA for a period specified as either the school year or fiscal year and used in the SFA 's food service. USDA Foods are only to be used for the purposes of the program and may not be used for special functions conducted outside the nonprofit school food service (e.g. catered meals).
- c) Must use all donated ground beef, donated ground pork, and all processed end products, in the SFA's food service must use all other donated foods, or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the SFA 's food service (unless the contract specifically stipulates that the donated foods, and not such commercial substitutes, be used).
- d) May purchase processed end products for use in Child Nutrition Programs , but may not itself enter into the processing agreement with the processor
  - i) Shall credit SFA for the value of USDA Foods contained in the end products at the processing agreement value or pass the donated food value in processed end products on to the SFA.
  - ii) All refunds received from processors must be credited to SFA's Nonprofit School Food Service Account. (7 CFR § 250.51(a))
- e) Shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.
- f) Must credit SFA for the value of all USDA Foods received for the use in SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA Foods contained in processed end products. In crediting it for the value of donated foods, the FSMC uses the donated food values determined by the distributing agency, in accordance with §250.58(e).
- g) Is prohibited from cashing out USDA Foods and providing a credit to SFA for USDA Foods. (7 CFR § 250.13)
- h) Will comply with 7CFR 250 concerning storage and inventory management of USDA Foods:
  - i) Will maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of USDA Foods.
  - ii) Shall ensure that its system of inventory management will not result in SFA being charged for USDA Foods in cost reimbursable contracts.
  - iii) Failure by FSMC to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA Foods.
  - iv) May store and inventory donated foods together with foods it has purchased commercially for the SFA's use (unless specifically prohibited in the contract). It may store and inventory such foods together with other commercially purchased foods only to the extent that such a system ensures compliance with the requirements for the use of donated foods in §250.51(d)—i.e., use all donated ground beef and ground pork, and all end products in the food service, and use all other donated foods or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the food service
  - v) Must ensure that its system of inventory management does not result in the SFA being charged for donated foods.
- i) Shall allow SFA and/or any state or federal representative/auditor, including the Comptroller General and USDA, or their duly authorized representatives, to perform onsite reviews of FSMC's

food service operation, including review of records, to ensure compliance with requirements for management and use of USDA Foods. (7 CFR §250.53(a)(10))

- j) Must maintain the following records relating to the use of donated foods in its contract with the SFA:
  - i) The donated foods and processed end products received from, or on behalf of, the SFA, for use in the SFA's food service;
  - ii) Documentation that it has credited the SFA for the value of all donated foods received for use in the SFA's food service in the school or fiscal year, including, in accordance with the requirements in 7 CFR §250.51(a), the value of donated foods contained in processed end products; and
  - iii) Documentation of its procurement of processed end products on behalf of the SFA, as applicable

3. *Method and frequency of crediting*

- a) The SFA may permit crediting for the value of donated foods through invoice reductions, refunds, discounts, or other means. However, all forms of crediting must provide clear documentation of the value received from the donated foods—e.g., by separate line item entries on invoices.
- b) The method of determining the donated food values to be used in crediting result in the determination of actual values; e.g., the average USDA purchase price for the period of the contract with the food vendor, or the average price per pound listed in market journals over a specified period of time. Negotiation of such values is not permitted.
- c) In Cost-Reimbursable Contracts: Crediting may be performed by disclosure; i.e., the FSMC credits the SFA for the value of donated foods by disclosing, in its billing for food costs submitted to the SFA, the savings resulting from the receipt of donated foods for the billing period.
- d) In Fixed Fee Contracts: The SFA may permit a FSMC to pre-credit for donated foods. In pre-crediting, a deduction for the value of donated foods is included in the established fixed price per meal. However, the SFA must ensure that the FSMC provides an additional credit for any donated foods not accounted for in the fixed price per meal—e.g., for donated foods that are not made available until later in the year.
- e) In all cases, the SFA must require crediting to be performed not less frequently than annually and must ensure that the specified method of valuation of donated foods permits crediting to be achieved in the required time period.
- f) The SFA must also ensure that the method, and timing, of crediting does not cause its cash resources to exceed the limits established in 7 CFR 210.9(b)(2).

<b>Crediting USDA Donated Foods</b>
FSMC must state here:
Method of reporting crediting of USDA Donated Foods: _____
Crediting timeframe beneficial to SFA, no less than annually: _____
Method of documentation utilized to verify that the value of all donated foods has been credited _____ _____
The method of determining the donated food values to be used in crediting, in accordance with 7 CFR §250.51(c), or the actual donated food values _____ _____

4. The method used to determine the donated food values may not be established through a post-award negotiation, or by any other method that may directly or indirectly alter the terms and conditions of the procurement or contract.
5. In Fixed Fee Contracts: The Fixed-meal Fee contract bid Fee per meal must be calculated as if no donated USDA Foods were available.
6. FSMC acknowledges that renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA Foods. (7 CFR § 250.53(a)(12))
7. Upon termination of this Contract, must return all unused donated ground beef, donated ground pork, and processed end products, and must, at the SFA 's discretion, return other unused donated foods. The SFA must ensure that the FSMC has credited it for the value of all donated foods received for use in the SFA's meal service in a school year or fiscal year, as applicable. (7 CFR § 250.52)

**G. Employees**

1. FSMC shall provide and pay a staff of qualified management (and operational) employees assigned to duty on SFA’s premises for efficient operation of the Programs. The FSMC must ensure that the FSMC employees providing services for the school meal programs have the required annual training and show compliance with the annual training standards
2. FSMC is required to provide documentation to the SFA showing the training hours and topics completed by the FSMC employees. If the SFA requests that the FSMC track SFA employees this is indicated in Exhibit D Chart 6.
3. If the FSMC staff person performs food service director type duties, but reports to a district business manager who is responsible for the school district’s school food service activities, both individuals would be responsible for meeting the training standards for program directors and comply with the professional standards requirements.
4. Minimum Hiring Standards for Food Service Directors: The following chart summarizes the minimum hiring standards (7 CFR 210.30 (2)). The student enrollment includes total enrollment in all schools in all LEAs in all FSMC contracts for an individual food service director.

<b>Minimum requirements for directors</b>	<b>Student enrollment 2,499 or less</b>	<b>Student enrollment 2,500-9,999</b>	<b>Student enrollment 10,000 or more</b>
<b>Minimum Education Standards (required) (new directors only)</b>	High school diploma (or GED) <i>and</i> 3 years of relevant school nutrition program experience.	Associate degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <i>and</i> at least 2 years of relevant school nutrition program experience.	Bachelor's degree in any major <i>and</i> at least 5 years of experience in management of school nutrition programs
<b>Minimum Prior Training Standards (required) (new directors only)</b>	At least 8 hours of food safety training is required either not more than 5 years prior to their starting date or completed within 30 calendar days of employee's starting date.		

5. SFA will designate if current SFA employees, including site and area managers as well as any other staff, will be retained by SFA or be subject to employment by the FSMC. This information is reported in Exhibit D: List of SFA Charts and Attachments, Chart 1, which is attached to this Contract and fully incorporated herein.

6. SFA shall provide in Exhibit D: List of SFA Charts and Attachments, Chart 1 a list of each FSMC food service position and the minimum qualifications acceptable to SFA for each position
8. Any food service position not identified above shall be an employee of SFA.
  - a) Such employees shall be supervised on SFA's behalf by FSMC management employees; provided, however, that
  - b) SFA shall retain the exclusive right to control the terms and conditions of the employment of such supervisory and non-supervisory employees, including, but not limited to, control over their hiring, firing, promotion, discipline, levels of compensation and work duties.
9. If provided for in the Proposal, SFA and FSMC may transition SFA's food service employees to FSMC's payroll. If transition occurs,
  - a) FSMC shall give first consideration to current employees of SFA or incumbent contractor when hiring employees to provide services pursuant to this Contract, but FSMC shall not be obligated to hire such employees.
  - b) Each position to be transitioned and date of transition shall be identified in Exhibit D: List of SFA Charts and Attachments, Chart 1
  - c) SFA shall provide in Exhibit D: List of SFA Charts and Attachments, Chart 1 a list of each FSMC food service position and the minimum qualifications acceptable to SFA for each position.
  - d) SFA shall not pay cost of transferring SFA employees to FSMC payroll.
10. Under a cost-reimbursable contract, after transition occurs, FSMC may charge the cost of transitioned employees to SFA as Direct Costs.
11. SFA shall have final approval regarding the hiring of the **Food Service Director** (*or title of the highest ranking FSMC employee assigned to SFA's Food Service Program*). This person must meet the minimum hiring standards in 7 CFR 210.30.
12. FSMC shall:
  - a) Comply with all wage and hours of employment requirements of federal and state laws.
  - b) Be responsible for supervising and training personnel, including SFA-employed staff. Supervision activities include employee and labor relations, personnel development, and hiring and termination of FSMC management staff, except for the Food Service Director.
  - c) Be responsible for the hiring and termination of non-management staff who are employees of FSMC.
  - d) Provide Workers' Compensation coverage for its employees, as required by law.
  - e) Instruct its employees to abide by the policies, rules, and regulations with respect to use of SFA's premises as established by SFA and are furnished in writing to FSMC.
  - f) Maintain its own personnel and fringe benefits policies for its employees, subject to review by SFA.
 

**Under a cost-reimbursable contract:**

    - i) Fringe benefits, as well as the basis for any salary increases, must be specified in the Proposal and approved by SFA in order for these to be Allowable Costs.
    - i) Salary increases, if any, shall be awarded, in part, on the basis of criteria mutually established by SFA and FSMC.
    - ii) Such criteria, at a minimum, shall reflect measurable and substantive improvements in operating efficiencies, such as unit costs for food, labor and direct items or specific and identifiable increase in such areas as the total numbers of students and staff participating in food service programs.
  - g) Assign to duty on SFA's premises only employees acceptable to SFA.
  - h) Cause all of its employees assigned to duty on SFA's premises to submit to health examinations as required by law, and shall submit satisfactory evidence of compliance with all health regulations to SFA upon request.
  - i) Remove any employee who violates health requirements or conducts him/herself in a manner that is detrimental to the well-being of the students, provided such request is not in violation of any

- federal, state or local employment laws. In the event of the removal or suspension of any such employee, FSMC shall immediately restructure the food service staff to avoid disruption of service
- j) Not blacklist or require a letter of relinquishment or publish or cause to be published or blacklisted any employee of FSMC or SFA discharged from or voluntarily leaving the service of FSMC or SFA with intent of and for the purpose of preventing such employee from engaging in or securing similar or other employment from any other corporation, company, or individual.

13. Staffing patterns, except for the Food Service Director, shall be mutually agreed upon.
14. All SFA and FSMC personnel assigned to the food service operation in each school shall be instructed in the use of all emergency valves, switches, and fire and safety devices in the kitchen and cafeteria areas.
15. To the extent and in the manner required by Sections 22-32-109.7 and 22-32-109.8, Colorado Revised Statutes, FSMC shall perform all required security (background) checks on any potential FSMC employee that will be working at SFA. The FSMC and the SFA shall not employ any person to perform services under this agreement who been convicted of, has pled guilty or nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or misdemeanor crime as outlined in the above C.R.S. Sections 22-32-109.7 and 22-32-109.8.

#### **H. Use of Facilities, Inventory, Equipment, and Storage**

1. SFA will make available, without any cost or charge to FSMC, area(s) of the premises in which FSMC shall render its services.
2. SFA shall have full access to the food service facilities at all times and for any reason, including inspection and audit.
3. FSMC and SFA shall:
  - a) **Non-expendable supplies and capital equipment:** At the commencement, termination, or expiration of this Contract,
    - i) Take a physical inventory of all non-expendable supplies and capital equipment owned by SFA, including, but not limited to, silverware, trays, chinaware, glassware and kitchen utensils and all furniture, fixtures, and dining room equipment utilized in SFA's Food Service Program.
    - ii) Mutually agree on the usability of such supplies and equipment and,
    - iii) At the expiration or termination of this Contract, FSMC shall surrender to SFA all non-expendable supplies and capital equipment in the condition in which it was received except for ordinary wear and tear, damage by the elements and except to the extent that said premises or equipment may have been lost or damaged by vandalism, fire, flood or other acts of God, or theft by persons other than employees of FSMC except through the negligence of FSMC or its employees, or for any other reason beyond the control of FSMC.
    - iv) Sign a summary of the beginning inventory and ending inventory at the expiration or termination of this Contract and keep a copy of each on file with this Contract.
  - b) **Food and supplies:** At the commencement, expiration or termination of this Contract,
    - i) Jointly undertake a beginning and closing inventory of all food and supplies.
    - ii) Determine whether any portion of the beginning inventory is not suitable for SFA's continued use. Such inventory shall become a part of this Contract by incorporation.
    - iii) Inventory USDA Foods by a separate inventory. The market value is based on the value in USDA's WBSCM (Web Based Supply Chain Management) at the time the USDA Foods are received by SFA. FSMC shall be compensated for any increases in such inventory not accounted for by **USDA Foods** inventory increases for which FSMC had not previously provided SFA a credit.
    - iv) FSMC shall be responsible for accounting for any difference between the beginning inventory and the ending inventory and shall compensate SFA for any shortfall in inventory not arising from:

- (1) use of food, USDA Foods and related supplies in SFA's Food Service Program for which SFA had not previously received a credit;
  - (2) normal wear and tear;
  - (3) theft, fire or other casualty loss beyond the control of FSMC and not arising from the negligence of FSMC or its agents.
- v) Determine the value of the inventories, except for USDA Foods inventories, by invoice cost.

4. FSMC shall:

- a) Maintain the inventory of silverware, chinaware, kitchen utensils and other operating items necessary for the food service operation and at the inventory level specified by SFA.
- b) Maintain adequate storage procedures, inventory and control of USDA Foods in conformance with SFA's agreement with CDHS.
- c) Provide SFA with keys for all food service areas secured with locks.
- d) Not remove any SFA owned equipment from SFA's premises.
- e) Comply with all SFA building rules and regulations.
- f) Surrender to SFA all of SFA's equipment and furnishings in good repair and condition, reasonable wear and tear excepted upon termination of this Contract.
- g) FSMC shall not use SFA's facilities to produce food, meals or services for third parties without the approval of SFA.
  - i) If such usage is mutually acceptable, there shall be a signed agreement that stipulates the fees to be paid by FSMC to SFA for such facility usage.
  - ii) Such usage may not result in a cost to the Non-profit Food Service Account.

5. SFA shall:

- a) Replace expendable equipment and replace, repair, and maintain nonexpendable equipment except when damages result from careless use by the employees of FSMC.
- b) Provide FSMC with local telephone service, water, gas and electric service for the food service program.
- c) Furnish and install any equipment and/or make any structural changes to the facilities needed to comply with federal, state, or local laws, ordinances, rules and regulations.
- d) Be responsible for any losses, including USDA Foods, which may arise due to equipment malfunction or loss of electrical power not within control of FSMC.
- e) Not be responsible for loss or damage to equipment owned by FSMC and located on SFA premises.
- f) Shall retain title to all SFA food and supplies in SFA during the course of this Contract

**I. Health Certifications/Food Safety/Sanitation**

1. FSMC shall

- a) Maintain, in the storage preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety inspection requirement of § 210.13(b). (7 CFR § 210.9(b)(14))
- b) Maintain all State of Colorado and local health certification for any facility outside the school in which it proposes to prepare meals and shall maintain this health certification for the duration of this Contract. (7 CFR § 210.16(c)(2))
- c) Obtain and post all licenses and permits as required by federal, state, and/or local law.
- d) Comply with all State of Colorado and local and sanitation requirements applicable to the preparation of food. (7 CFR 210.16(a)(7))
- e) Adhere to the food safety program implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required by the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265).
- f) Allow at least two health inspections to be conducted by the Health Department at every site involved in school meal preparation and/or service as required by CNR.

2. SFA shall
  - a) Maintain applicable health certification.
  - b) Ensure that FSMC complies with all applicable state and local regulations pertaining to sanitation, preparing or serving meals at a SFA facility. (7 CFR § 210.16(a)(7))
  - c) Provide sanitary toilet and hand washing facilities for the employees of FSMC as required by state and local sanitation requirements.
3. SFA and FSMC will follow the responsibility for tasks as designated in Exhibit D List of SFA Charts and Attachments, Chart 6, Designated Program Expenses

**J. Financial Terms**

1. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, catering, a la carte, vending, concessions, contract meals, grants and loans shall be credited to the Non-profit School Food Service Fund on a daily basis.
2. Any profit or guaranteed return shall remain in the SFA’s Non-profit School Food Service Account.
3. All facilities, equipment, and services to be provided by SFA shall be provided at SFA’s expense.
4. Meal Equivalency Rate means the sum of the total reimbursement received for each lunch meal served and claimed. The equivalency factor shall remain fixed for the term of the Contract and all renewals.
5. **Meal Equivalency Rate (AS PROVIDED BY CDE)**

<b>Lunch Meal Equivalency Rate:</b>	
FY 2022-23 Federal Free Rate of Reimbursement + .08 Certification	\$4.0100
FY 2022-23 Value of USDA Entitlement USDA Foods:	\$0.4100
<b>Total Meal Equivalent Rate</b>	<b>\$4.4200</b>

**6. List of Meal equivalent Ratios:**

Type of Meal/Snack	Ratio of meals to Meal Equivalents (COMPLETED BY FSMC)	Institute of Child Nutrition Recommendations
<b>Breakfast</b>		<b>2:3 (0.67)</b>
<b>Lunch</b>		<b>1:1</b>
<b>Snack</b>		<b>3:1 (0.33)</b>
<b>A la Carte</b>	<b>\$4.4200</b>	<b>Use meal equivalent rate (22-23 Federal Free Reimbursement rate + \$0.08 certification + 22-23 value of USDA entitlement)</b>
<b>USDA FFVP</b>		
<b>Other (please indicate)</b>		

**7. Payment Terms/Method:**

<b><u>Cost Reimbursable Proposal/Contract:</u></b>
1. FSMC will be paid on the basis of the Direct Cost incurred plus any fixed fees. The value of USDA Foods used must be itemized in the regular monthly billing to the SFA to document savings resulting from commodity usage. The values are to be determined in accordance with section F of the Standard Terms and Conditions herein above
2. All program expenses not otherwise defined in the Contract will be assumed to be covered by the FSMC under the General and Administrative Expense Fee. All

indirect and overhead costs must be included in the General and Administrative Expense Fee.	
<b><i>The following must be included in the General and Administrative Expense Fee and may not be charged in any other expenses. Also, any travel relating to the following must be covered by the General and Administrative Expense Fee.</i></b>	
Personnel /Labor Relations Services	Regular Inspections or Audit Personnel,
Legal Department Services,	Teaching and Training Programs,
Purchasing and Quality Control,	General Regional Support,
Technical Research,	General National Headquarters Support,
Personnel Advice	Design Services,
Dietetic Services-Administrative/Nutritional	Menu Development,
Test Kitchens,	Information Technology and Support,
Accounting and Accounting Procedures,	Payroll Documentation / Administrative Cost,
Tax Administration,	Sanitation,
Technical Supervision,	Cost Incurred in Hiring & Relocating FSMC Management Personnel
Supervisory Personnel	
<p>3. Expenses included in the General and Administrative Fees</p> <ol style="list-style-type: none"> <li>May not be charged in any other expense.</li> <li>Any travel related to these expenses.</li> <li>Does not include any costs billed to SFA as Charges or Direct Costs.</li> </ol>	
<p>4. Only actual, net, documented costs may be charged to SFA for any charges outside the General and Administrative Expense Fee. No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of 7 CFR 210.21, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.</p>	
<p>5. Management and General and Administrative Expense Fees may be increased on an annual basis by the Yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home (CPI).</p>	



<p>6. <u>FSMC must:</u></p> <ul style="list-style-type: none"> <li>a) Submit detailed cost documentation for each Accounting Period to support what the SFA is charged for each cost, Charge, or expense.</li> <li>b) Ensure costs, charges, and expenses must be mutually agreeable to the SFA and the FSMC and be allowed by CDE.</li> <li>c) Upon termination of the Contract, all outstanding amounts shall immediately become due and payable.</li> <li>d) Submit invoices that: <ul style="list-style-type: none"> <li>i) include a reconciliation for any overpayment or underpayment from prior Accounting Periods and shall</li> <li>ii) Identify and account for donated food as stated herein above.</li> </ul> </li> <li>e) Be responsible for paying all applicable taxes and fees, including, but not limited to, excise tax, state and local income tax, payroll and withholding taxes, for FSMC employees.</li> <li>f) Indemnify and hold SFA harmless for all claims arising from payment of such taxes and fees.</li> <li>g) FSMC may charge SFA for all applicable taxes and fees, including, but not limited to, excise tax, state and local income tax, payroll and withholding taxes, FSMC actually paid for FSMC employees. FSMC may not charge late fees, penalties, or interest.</li> </ul>	
<p>7. FSMC shall not pay any bonuses under this Contract that are not specifically provided for in the Budget and within the scope or original intent of this RFP/Contract and FSMC's Proposal.</p> <ul style="list-style-type: none"> <li>a) Bonuses, if any, shall be awarded, in part, on the basis of criteria mutually established by SFA and FSMC.</li> <li>b) Such criteria, at a minimum, shall reflect measurable and substantive improvements in operating efficiencies, such as unit costs for food, labor and direct items or specific and identifiable increase in such areas as the total numbers of students and staff participating in food service programs.</li> </ul>	
<p>8. As this is a cost-reimbursable contract, SFA will reimburse for reasonable wireless telephone expense incurred by the Director for communications related to the Contract.</p> <ul style="list-style-type: none"> <li>a) If allowed, it must be charged as an expense by FSMC.</li> <li>b) Reasonable expenses shall not include additional services such as paging, e-mail, or data. If allowed, paging, e-mail, paging or data services will be reimbursed at the same rate as received by SFA employees and must be charged as an expense by the FSMC.</li> </ul>	
<p>9. As this is a cost-reimbursable contract, SFA will reimburse for travel expenses, for on-site FSMC staff only,</p> <ul style="list-style-type: none"> <li>a) that are Direct Costs related to the Contract and</li> <li>b) Are provided for in the budget.</li> <li>c) Reasonable expenses shall include mileage reimbursement, lodging (at the lowest available room rate) and reasonable meal expenses.</li> <li>d) Mileage, lodging and meal expenses will be reimbursed at the same rate as received by SFA employees.</li> </ul>	
<b>Cost Reimbursable Proposal: To be completed by the FSMC:</b>	
<b>Flat Fee</b>	<b>\$</b>
<b>General and Administrative Expense Fee Per Meal/Meal Equivalent:</b>	<b>\$</b>

**6. General Rate Information for all RFP/Contracts:**

- e) All fee/rate increases shall be effective on a prospective basis on each anniversary date of this Contract and will be allowed only if approved in advance by SFA.
- f) CPI Fee increases for the upcoming Contract renewal year must be submitted to SFA by April 1 of each year.
- g) No other fee increases will be allowed.
- h) For the purpose of computing the foregoing meal counts, the number of National School Lunch Program, School Breakfast Program, Afterschool Care Snack Program, and Summer Program meals served to children shall be determined by actual count.
- i) No payment will be made to FSMC for meals that:
  - i) are spoiled or unwholesome at the time of delivery;
  - ii) do not meet detailed specifications as developed by SFA for each food component in the meal pattern; or
  - iii) Do not otherwise meet the requirements of this Contract.

**7. Payment Terms/Method:**

- 8. FSMC shall invoice SFA within   **10** days after the end of each Accounting Period for the total amount of SFA's financial obligation for that Accounting Period.
- 9. No interest or finance charges that may accrue under this Contract may be paid from SFA's Nonprofit School Food Service Account.

**10. FSMC must:**

- a) Be responsible for paying all applicable taxes and fees, including, but not limited to, excise tax, state and local income tax, payroll and withholding taxes, for FSMC employees.
- b) Indemnify and hold SFA harmless for all claims arising from payment of such taxes and fees.

**11. Insert if guaranty included in RFP:**

- a) SFA and FSMC shall cooperate to ensure that SFA's Food Service Program is operated in accordance with SFA's Food Service Budget.
- b) In the event that FSMC's operation of SFA's Food Service Program results in a deficit greater than the projected deficit stated in SFA's Food Service Budget or a return that is less than the projected return stated in the Food Service Budget, FSMC shall within 30 days pay SFA a guaranty payment as provided for by the "Schedule of Terms for FSMC Guaranty," which is attached to this Contract as "Exhibit H" and fully incorporated herein.
- c) In the event that FSMC pays a guaranty, FSMC may not recover the guaranty from SFA in subsequent Contract years.
- d) Any guaranteed return promised by the FSMC must remain in the nonprofit food service account. The FSMC agrees to bear responsibility for failure to meet this goal. Returns cannot be contingent upon multi-year duration.

- 12. SFA shall not be responsible for any expenditure incurred by FSMC before execution of this Contract and approval by CDE of effective date.

- 13. No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements.

**K. Record Keeping**

**FSMC shall:**

- a) Maintain records (supported by invoices, receipts, or other evidence) SFA will need to support its Claim for Reimbursement under this part, and shall, at a minimum, report claim information to the SFA promptly at the end of each month and

- i) Shall submit monthly operating statements in a format approved by the SFA no later than the 10th day of the month following the month in which services were rendered.
  - ii) Submit participation records, including claim information by eligibility category, no later than the *day of the month determined by the SFA & FSMC* following the month in which services were rendered. SFA will complete edit checks on the submitted participation records prior to preparation and submission of the claim for reimbursement. When applicable, to support a timelier reimbursement claim, participation records shall be submitted prior to month end if the month end is preceded by more than four (4) non-school days (e.g., December).
  - b) Maintain records at SFA's premises to support all allowable expenses appearing on the monthly operating statement.
  - c) Keep records in an orderly fashion according to expense categories.
  - d) Provide SFA with a year-end statement.
  - e) Provide all documents necessary for the independent auditor to conduct SFA's single audit.
  - f) Make its documents, papers, and records pertaining to the Contract available, upon demand, in an easily accessible manner for a period of three years after the final claim for reimbursement for the fiscal year to which they pertain for the purpose of making audit, examination, excerpts, and transcriptions.
  - g) Retain records beyond the three-year period if audit findings regarding FSMC's records have not been resolved within the three-year record retention period, for as long as required for the resolution of the issues raised by the audit. (Reference 7 CFR §210.9(b)(17), 2 CFR §200.333)
  - h) Authorized representatives of SFA, CDE, CDHS, USDA and USDA's Office of the Inspector General (OIG) shall have the right to conduct on-site administrative reviews of the food service operation.
2. With a cost-reimbursable contract, SFA may conduct an internal audit of food, labor, and other expense items as needed.
  3. FSMC shall not remove federally required records from SFA premises upon the expiration or termination of this Contract.

**L. Term and Termination**

1. Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (2 CFR Appendix II to Part 200)
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the SFA including the manner by which it will be effected and the basis for settlement.
3. If, at any time, SFA shall make a reasonable decision that adequate funding from federal, state or local sources shall not be available to enable SFA to carry out its financial obligation to FSMC, then SFA shall have the option to terminate this Contract by giving 10 days written notice to FSMC.
4. In the event either party commits material breach of this Contract, the non-breaching party shall give the breaching party written notice specifying the default, and the breaching party shall have 30 days within which to cure the default.
  - A. If the default is not cured within that time, the non-breaching party shall have the right to terminate this Contract for cause by giving 30 days written notice to the breaching party.
  - B. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this Contract.
  - C. Notwithstanding the foregoing termination clause, in the event that the breach concerns sanitation problems, the failure to maintain insurance coverage as required by this Contract, failure to provide

required periodic information or statements or failure to maintain quality of service at a level satisfactory to SFA, SFA may terminate this Contract immediately.

5. Either party may terminate this Contract for cause by providing sixty (60) days prior written notice to the other party. (7 CFR210.16(c)(3)(d))
6. In the event that either party is prevented from performing its obligations under this Contract by war, acts of public enemies, fire, flood or acts of God (individually each known as a "Force Majeure Event"), that party shall be excused from performance for the period of such Force Majeure Event exists.
7. In the event of FSMC's nonperformance under this Contract or the violation or breach of the terms of this Contract, SFA shall have the right to pursue any and all available administrative, contractual, and legal remedies against FSMC. Nonperformance subjects the FSMC to specified sanctions in instances where the FSMC violates or breaches contract terms. The school food authority shall indicate these sanctions in accordance with the procurement provisions stated in §210.21.
8. FSMC shall promptly pay SFA the full amount of any meal over claims, disallowed costs or other or fiscal actions which are attributable to FSMC's actions hereunder, including those over claims based on review or audit findings that occurred during the Effective Dates of original and renewal contracts.
9. 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. Matters concerning violation of law are to be referred to the local, State, or Federal authority that has proper jurisdiction.

#### **M. Insurance**

***SFA MUST evaluate and determine acceptable insurance limits for this section.***

1. FSMC shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Colorado. A Certificate of Insurance of FSMC's insurance coverage indicating these amounts must be submitted at the time of award.
2. The information below must be completed by SFA:
  - A. Comprehensive General Liability—includes coverage for:
    - i) Premises—Operations
    - ii) Products—Completed Operations
    - iii) Contractual Insurance
    - iv) Broad Form Property Damage
    - v) Independent Contractors
    - vi) Personal Injury \$1 million Combined Single Limit
  - B. Automobile Liability coverage with a \$1 million Combined Single Limit.
  - C. Workers' Compensation—Statutory; Employer's Liability with a combined single limit of \$ Colorado statutory limit
  - D. Excess Umbrella Liability with a combined single limit of \$1 million
3. SFA shall be included as additional insured on General Liability, Automobile, and Excess Umbrella policies.
4. The contract of insurance shall provide for notice to SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.
5. Notwithstanding any other provision of this Contract, SFA shall not be liable to FSMC for any indemnity.

#### **N. Trade Secrets and Proprietary Information**

All submitted proposals become the property of the SFA. The SFA is a Political Subdivision of the State of Colorado, and, therefore, it is subject to the Colorado Open Records Act (C.R.S. 24-72-200.1 Et Seq) (CORA).

Responders to this RFP are advised that proposals and related materials will generally be treated as “public records” under CORA and be available for inspection and copying. If a responder believes that certain information included in the proposal is subject to exclusion under CORA, the responder should, in the proposal, specifically delineate such information and state the specific exclusion, including citation to CORA. The SFA shall consider such statements in its response to CORA requests. The SFA will notify the responder if a request is made for such information so that the responder may take any action it deems necessary to defend against the request. The responder, not the SFA, shall be the entity responsible for defending against CORA disclosures for any records, including the costs of litigation. Additionally, the Colorado Department of Education may also receive and respond to CORA requests related to proposals submitted to SFAs. CDE will respond with a redacted proposal if one is provided with the original proposal submission, otherwise the unredacted proposal will be shared as the CDE response to a CORA request.

1. PROPRIETARY INFORMATION. It is understood that the SFA is a public institution and, as such, is subject to the Colorado Open Records Act, CRS §§ 24-72-101 et. seq. (“CORA”). Except as otherwise agreed prior to the award or finalization of any vendor transaction SFA shall provide for inspection upon request by any third party all information pertaining to such transaction which must be disclosed pursuant to CORA. SFA’s obligations under CORA supersede its obligations under any agreement, contract, purchase order or negotiated transaction.
2. During the term of this Contract, FSMC may grant to SFA a nonexclusive right to access certain proprietary materials of FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by FSMC) and similar compilations regularly used in FSMC business operations (“Trade Secrets”).
  - A. SFA shall not disclose any of FSMC's Trade Secrets or other confidential information, directly or indirectly, during or after the term of this Contract.
  - B. SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of FSMC.
  - C. All trade secrets and other confidential information shall remain the exclusive property of FSMC and shall be returned to FSMC immediately upon termination of this Contract.
  - D. SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures and methods.
  - E. Without limiting the foregoing and except for software provided by SFA, SFA specifically agrees that all software associated with the operation of the food service, including without limitation, menu systems, food production systems, accounting systems and other software, are owned by or licensed to FSMC and not SFA.
  - F. Furthermore, SFA's access or use of such software shall not create any right, title interest or copyright in such software and SFA shall not retain such software beyond the termination of this Contract.
  - G. In the event of any breach of this provision, FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available.
  - H. All of SFA's obligations under this section are subject to SFA’s obligations under Colorado Statute and any other law that may require SFA to use, reproduce or disclose FSMC confidential information.
  - I. This provision shall survive termination of this Contract.

3. Any discovery, invention, software or program, the development of which is paid for by SFA, shall be the property of SFA to which CDE and USDA shall have unrestricted rights.
4. During the term of this Contract, FSMC may have access to SFA confidential information (“SFA Confidential Information”), including student identifiable confidential information that is protected from disclosure by federal law (42 U.S.C. §1758(b)(6)).
  - A. FSMC agrees to hold any SFA Confidential Information in confidence during the term of this Contract and thereafter.
  - B. FSMC further agrees that FSMC has no independent rights to this information and will not make any SFA Confidential Information available in any form to any third party or use Confidential Information for any purpose other than the performance of FSMC’s obligations under this Contract.
  - C. FSMC will use reasonable security measures to protect SFA’s Confidential Information from unauthorized access, use or disclosure and ensure that SFA’s Confidential Information is not disclosed or distributed in violation of the terms of this Contract.
  - D. Immediately upon the termination or expiration of this Contract, FSMC shall return to SFA any copies of SFA’s Confidential Information provided to FSMC by SFA, and FSMC will destroy all other copies of SFA’s Confidential Information in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

**O. Summer Food Service Program (if applicable)**

*(SFA must mark through or delete this entire section if not applicable)*

Sponsors may not contract out the following management responsibilities of the Program (7 CFR 225.15(a)(3)). The SFA is responsible for full compliance with rules and regulations relating to implementation of the SFSP. (7CFR 225.15(3))

- 13.** The following administrative responsibilities must remain with an employee of the SFA, as the SFSP Sponsor, and may not be delegated to a FSMC employee.

The SFA is responsible to:

- A. Meal orders:
  - a. Inform the FSMC of approved level at each site for which the FSMC will provide meals.
  - b. Plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service.
- B. Records and claims
  - a. Maintain accurate records which justify all costs and meals claimed.
  - b. Submit claims for reimbursement in accordance with 7CFR 225.15.
- C. Training and monitoring
  - c. Hold Program training sessions for its administrative and site personnel and
  - d. Not allow a site to operate until personnel attend at least one of the trainings.
  - e. Visit each of their sites at least once during the first week of SFSP operation.
  - f. Review food service operations at each site at least once during the first four weeks of Program operations
  - g. Maintain a reasonable level of site monitoring.
  - h. Document required SFSP site visits of all sites.
- D. Determination / Processing of Free and Reduced-Price applications
  - a. Coordination of printing of materials
  - b. Approving Official, Hearing Official, or contact person for questions.
  - c. Development of materials for distribution from prototypes provided by CDE, including Letter to Parents, Application, Public Release, etc.
  - d. Distribution of materials to parents/guardians
  - e. Collection of submitted applications.

- f. Processing of applications, including approval/denial and follow-up to obtain complete information.
  - g. Inputting data into computer if applications approved manually.
  - h. Inputting data into computer if computer system automatically determines eligibility.
  - i. Final approval and signature of approving official.
  - j. Notification of approval and status to parent/guardian.
- E. Submission of Media Release.
  - F. Completion of Summer Food Service Program Sponsor and Site Application
  - G. Preparation and submission of claim for reimbursement
    - a. Compiling daily site counts at the school and SFA level, and maintaining records.
    - b. Signing the claim for reimbursement
14. FSMC may complete the following duties in the SFSP for the SFA
- A. Meal preparation. Preparation of food according to the menu planning option.
  - B. Meal delivery.
  - C. Meal service. Meals served within the designated time period.
15. The FSMC or SFA may ensure that in storing, preparing, and serving food, proper sanitation and health standards are met. SFA shall immediately correct any problems found as a result of a health inspection and shall submit written documentation of the corrective action implemented within two weeks of the citation.
16. SFA shall be responsible for determining eligibility of all SFSP sites.
17. FSMC must comply with the menu cycle approved by SFA for the SFSP
- c. SFA shall approve any changes in the menus no later than two weeks prior to service after the initial cycle has been used.
  - d. The SFA shall inform CDE of menu changes for the SFSP.
18. SFA will make final determination of the opening and closing dates of all SFSP sites.
19. FSMC may use USDA Foods to conduct SFSP in accordance with Section E of the Standard Terms and Conditions herein above.

**Q. Certifications**

The SFA and FSMC will take all necessary affirmative steps outlined in 2 CFR 200.321 to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Student Data Privacy Act C.R.S 22-16-108 to 22-16-110: SFAs cannot enter into a new contract (or renew an existing contract) with a School Service Contract Provider such as the FSMC that refuse to accept terms of the new law. SFA shall ensure that the terms of each contract that the SFA enters into or renews with the FSMC will, at a minimum, require the contract provider to comply with the requirements of the act.

FSMC shall execute and comply with the following Certifications which are attached to this Contract as Exhibits and fully incorporated herein.

- 1. Debarment Certification
- 2. Anti-collusion Affidavit
- 3. Certification Regarding Lobbying
- 4. Standard Form-LLL, Disclosure Form to Report Lobbying, when applicable

**R. Miscellaneous**

1. Emergency Notifications.

- a. SFA shall notify FSMC personnel of any interruption in utility service of which it has knowledge. Notification will be provided to:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Alternate telephone number: \_\_\_\_\_

- b. SFA shall notify FSMC personnel of any delay in the school day start or the closing of school(s) due to snow or other emergency situations. Notification will be provided to:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Alternate telephone number: \_\_\_\_\_

2. Governing Law. This Contract is governed by and shall be construed in accordance with Colorado law.
3. Headings. All headings and formatting contained in this Contract are for convenience of reference only, do not form a part of this Contract, and shall not affect in any way the meaning or interpretation of this Contract.
4. Incorporation/Amendments.
  - a. This Contract, which includes the attached Exhibits A – M and SFA’s RFP and Contract (collectively the “Contract Documents”), any additional agreements contained in the FSMC proposal contain the entire agreement between the parties with relation to the transaction contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties with regard thereto other than those specifically set forth in this Contract.
  - b. In the event of a conflict between or among any of the terms of the Contract Documents, such conflicts shall be resolved by referring to the Contract Documents in the following order of priority:
    - i. Contract;
    - ii. FSMC proposal documents identified as (a) \_\_\_\_\_, (b) \_\_\_\_\_, and (c) \_\_\_\_\_; and
    - iii. SFA’s RFP. No modification or amendment to this Contract shall become valid unless made in writing, signed by the parties, and approved by CDE.
5. Indemnity.
  - a. Except as otherwise expressly provided in this Contract, FSMC will defend, indemnify, and hold SFA harmless from and against all claims, liability, loss and expense, including reasonable collection expenses, attorneys’ fees and court costs that may rise because of the actions of FSMC, its agents or employees in the performance of its obligations under this Contract, except to the extent any such claims or actions result from the negligence of SFA, its employees or agents.
  - b. SFA can require the FSMC to pay the SFA for any overclaims assessed by the SA due to FSMC negligence or noncompliance with regulations.
  - c. This clause shall survive termination of this Contract.
6. Nondiscrimination / Civil Rights.

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.



To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. fax: (833) 256-1665 or (202) 690-7442; or
3. email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

7. Notices.

- a. All notices, consents, waivers or other communications which are required or permitted hereunder, except those required under Emergency Notification herein above, shall be sufficient if given in writing and delivered personally, or by sending a copy thereof by first class or express mail, postage prepaid, courier service, charges prepaid or by facsimile transmission (followed by the original) to the address (or to the facsimile or telephone number), as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):

To SFA: \_\_\_\_\_

To FSMC: \_\_\_\_\_

Copy to: \_\_\_\_\_

- b. If such notice is as above, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or courier service for delivery to that person or, in the case of facsimile transmission, when received.

8. Severability. If one or more provisions of this Contract, or the application of any provision to either party or circumstance is held invalid, unenforceable or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
9. Silence, absence or omission. Any silence, absence, or omission from the Contract specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that only materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by SFA are to be used.
10. Subcontract/Assignment. No provision of this Contract shall be assigned or subcontracted without prior written consent of SFA, except that FSMC may, after notice to SFA, assign this Contract in its entirety to an affiliated company or wholly owned subsidiary without prior written consent and without being released from any of its responsibilities hereunder. A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal (7 CFR 225.6(h)(2)(ii)).

11. Waiver. The failure of FSMC or SFA to exercise any right or remedy available under this Contract upon the other party's breach of the terms, covenants or conditions of this Contract or the failure to demand prompt performance of any obligation under this Contract shall not be deemed a waiver of such right or remedy; of the requirement of punctual performance; or of any subsequent breach or default on the part of the other party.
12. CDE review. **This Contract is not effective until it is approved, in writing, by CDE.**

**IV. AGREEMENT**

Offeror certifies that the FSMC shall operate in accordance with all applicable state and federal regulations.

Offeror certifies that all terms and conditions within the Proposal shall be considered a part of this Contract as if incorporated therein.

Any additional negotiations and terms that are included in additional documents not included in the original CDE approved RFP/contract template must be added to this CDE RFP/ contract and approved by CDE.

This Contract shall be in effect for one year and may be renewed by mutual agreement for up to four additional one-year periods using the approved CDE renewal agreement template.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed by their duly authorized representatives.

ATTEST:

\_\_\_\_\_

SCHOOL FOOD AUTHORITY:

Summit School District

Name of SFA

\_\_\_\_\_  
Signature of Authorized Representative

Kara Drake

Typed Name of Authorized Representative

Chief Financial Officer

Title

\_\_\_\_\_  
Date Signed

ATTEST:

\_\_\_\_\_

FOOD SERVICE MANAGEMENT COMPANY:

\_\_\_\_\_  
Name of FSMC

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Typed Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

**Exhibit A: SITE INFORMATION [To be completed by SFA]**

**Include the list of all sites with the following information for each site.**

- 1. Location of all sites with current enrollment and programs**
- 2. Programs/Services provided at each site, including the following:** If the SFA plans to add or drop programs during the contract, indicate the program(s) and expected dates of change. Adding or dropping a program may require a re-bid if not indicated in the original proposal.
  - National School Lunch Program (NSLP)
  - School Breakfast Program (SBP)- *(Please indicate below any sites that are required to participate in the Colorado State Breakfast after the Bell Program)*
  - After School Snack Program (ASP)
  - Summer Food Service Program (SFSP) or Seamless Summer Option (SFSP-SSO)
  - A la Carte (Must meet all USDA Smart Snack requirements) or Adult Meals
  - Catering / Contract Meals
  - Special Milk Program (SMP)
  - USDA Fresh Fruit and Vegetable Program (FFVP)
- 3. SFAs opting into Healthy School Meals for All (HB 22-1414) may experience an increase in participation. Any forecasted increases in participation that result in an increase to the fee amount and/or financial return to the SFA will need to be agreed upon between both parties. SFA will indicate below any plans to implement this state initiative:**  
SSD plans to participate in Healthy Meals for All, but we would like bids for these four scenarios:
  - Option 1: HSMA participation, with foodservice staff as SFA employees
  - Option 2: HSMA participation, with foodservice staff as FSMC employees
  - Option 3: NSLP/SBP without HSMA participation, with foodservice staff as SFA employees
  - Option 4: NSLP/SBP without HSMA participation, with foodservice staff as FSMC employees

Complete for all participating sites			Indicate Serving times if applicable						Indicate Sites	
Site / grades	Address	Enrollment	NSLP	SBP	ASP	SFSP	FFVP	SMP	A la Carte/ adult	Catering
Breckenridge Elementary	312 Harris St, Breckenridge, CO	200	X	X					x	x
Dillon Valley Elementary	0108 Deerpath Rd, Dillon, CO 80435	419	X	X		X			x	X
Frisco Elementary	800 8 <sup>th</sup> Ave, Frisco, CO	232	X	X					x	X
Silverthorne Elementary	101 Hamilton Creek Rd, Silverthorne, CO	342	X	X		x			x	X
Summit Cove Elementary	727 Cove Blvd, Dillon, CO	226	X	X					x	X
Upper Blue Elementary	1200 Airport Rd, Breckenridge, CO	237	X	X					x	x

Summit Middle School	158 School Rd, Frisco, CO	764	X	X		x			X	X
Snowy Peaks Jr/High School	158 School Rd, Frisco, CO	81	X	X					X	X
Summit High School	16201 Hwy 9, Breckenridge, CO	1132	X	X					X	X

**Serving Times**

Breckenridge Elementary  
Dillon Valley Elementary  
Frisco Elementary  
Silverthorne Elementary  
Summit Cove Elementary  
Upper Blue Elementary  
Summit Middle School  
Snowy Peaks Jr/High School  
Summit High School

**Breakfast Times**

8:15-8:45  
8:15-8:45  
8:15-8:45  
8:30-8:50  
8:15-8:45  
8:30-9:00  
7:15-7:45  
7:15-7:45  
7:15-7:45

**Lunch Times**

11:50-12:40  
11:00-1:00  
11:50-12:50  
11:00-1:00  
11:50-12:50  
11:20-12:30  
11:10-1:10  
11:10-1:10  
10:45-1:10

**Exhibit B: MENU CYCLES**

1. Attach a sample 21-day cycle menu.
2. The 21-day cycle menu developed in accordance with the provisions of §210.10, must be used as a standard for the purpose of basing bids or estimating average cost per meal.
3. Indicate if prepared by the FSMC, with approval of CDE, as part of the Proposal.
4. Menu will be evaluated based on affordability, nutrition requirements, appeal to students.
5. This menu must be used for the first 21-day cycle of the new school year for the following applicable programs.
  - a. National School Lunch Program
  - b. A La Carte Program (Must meet all USDA Smart Snack requirements)
  - c. School Breakfast Program
  - d. After School Care Snack Program
  - e. Seamless Summer Program or Summer Food Service Program
  - f. Fresh Fruit and Vegetable Program
  - g. Any other menu is optional based on expanding the program to include fruit and vegetable or farm to school programs.

**Exhibit C: FOOD SERVICE BUDGET – COST REIMBURSABLE (Delete for Fixed Fee proposal)**

To be completed by SFA - If SFA does not have a school board approved Budget, submit a draft.

SFA: School Year: 2023-2024		
REVENUES		
	Without HSMA	With HSMA
<b>Cash Sales:</b>		
Student Breakfast Sales	Universal Free	71807
Student Lunch Sales		367696
Student Snack Sales	Universal Free	
Student a la carte Sales		130000
Adult Sales		34000
Catering Sales, includes special events and providing meals for Head Start		5000
Interest Income		
Concession Sales		
Vended Meal Sales		
Vending Machine Sales		20600
<i>Total Cash</i>	<i>\$629,103</i>	<i>\$189600</i>
<b>State and Federal Reimbursement/Funding</b>		
Lunch		647556
Breakfast		160030
Snacks		
SFSP		17000
State Matching Fund		30260
USDA Foods Received		100000
Other Funding		
<i>Total Reimbursements</i>	<i>\$954,846</i>	
<b>All Cash Sales + All Reimbursements= Total Revenues</b>	<b>\$1,583,949</b>	<b>\$1,825,719</b>
<b>EXPENSES</b>		
Gross Food Costs		530556
Food Delivery Costs		
USDA Foods Used ( <i>Contact CDHS for annual SFA usage am 't</i> )		<u>100000</u>
Commodity Delivery		
Commodity Processing		
<b>Total Food Costs</b>	<b>\$630,556</b>	\$764,096
<b>Labor Costs</b>		
<b>FSMC Salaried Employees:</b> <i>FSMC: Summarize &amp; attach individual categorical breakdown for each FSMC salaried employee</i>	# FTEs	\$ PTEs
Base Gross Salary		85338
Educational Assistance		
Incentive Payments		
Bonus		4000
Merit Increase		
Retirement / IRA		
401K, 403(b)(7)		
Fringe Benefits		16695
Payroll Taxes		<u>17067</u>
<b>SFA / FSMC Hourly Staff</b>		
Gross Salaries		699294
		777147

Fringe Benefits	263318	291537
Payroll Taxes		
<b>Other Payroll Costs</b>		
Worker's Comp.		
Other		
<b>Total Labor Costs</b>	<b>\$1,085,712</b>	<b>\$1,191,784</b>
<b>FSMC Fees</b>		
Administrative Fees Cost	21000	21000
Management Fee Costs	79000	105709
<b>Total Fees</b>	<b>\$100,000</b>	<b>126709</b>
<b>FSMC Direct Costs – Subcategory Examples:</b>		
Paper & Disposable Goods	\$27900	29000
Replacements / Small wares		
Contracted Labor – Specify		
Auto Expenses	1000	1000
Insurance Expense		
Telephone		
Office Supplies		
Postage		
Bank Deposit Services		
Uniforms & Laundry		
Other Delivery & Freight/Nonfood		
Advertising, Promotions & Menus		
Marketing/Franchise & Décor		
Equipment Repair		
Licenses		
Employee Travel		
Security background check		
Miscellaneous - Specify	15000	15000
<i>Total FSMC Direct Costs</i>	<b>\$43,900</b>	<b>\$45,000</b>
<b>SFA Direct Costs: Provide same examples as in FSMC Direct Costs</b>		
Supplies (paper, etc.)		
Equipment (may include equipment reserve)		
<i>Total SFA Direct Costs</i>		
<b>Total Direct Costs</b>	<b>\$1,860,168</b>	<b>\$2,127,589</b>
<b>FSMC Indirect Costs – Subcategory examples include:</b>		
FSMC Charges	\$	
Technology Expense	\$	
a) a. Technology Allocated Charge	\$	
b) b. Other Technology Charge	\$	
Insurance Allocated Charge (Worker's Comp. Excluded)	\$	
Other Allocated Charges	\$	
Franchise Charges	\$	
Trademark Charges	\$	
Other Indirect Cost Categories	\$	
<b>Total FSMC Indirect Costs</b>	\$	
<b>Total Discounts, Rebates, Applicable Credits, allowances or incentives from FSMC Suppliers credited to SFA</b>	\$	



(All: Food Costs + Labor Costs+ Fees + Direct Costs + Indirect Costs) – (Total Discounts, Rebates, Applicable Credits, allowances or incentives from FSMC Suppliers credited to SFA) = <b>Total Expenses</b>		
<b>Total Revenues – Total Expenses = Surplus / Subsidy</b>	<b>-276,219</b>	<b>-112,270</b>
<b>FSMC Guaranteed Return</b>	\$	
<b>FSMC Guaranteed Break Even</b>	H	
<b>FSMC Guaranteed Subsidy</b>	\$-276,219	\$-112,270
<b>SFA Employee Responsible for submission of this budget data:</b>		
<b>Name:</b>		
<b>Telephone:</b>		
<b>FSMC Employee responsible for submission for this budget data:</b>		
<b>Name:</b>		
<b>Telephone:</b>		

**Exhibit D: LIST OF SFA CHARTS AND ATTACHMENTS**  
**[SFA shall provide to all vendors with RFP/Contract]**

**Chart 1:** Food Service Staffing for all sites:

1. SFA must identify whether each position is SFA or FSMC personnel.
2. SFA must state in detail minimum qualifications for each FSMC position.
3. If applicable, SFA shall identify each employee position to be transitioned to FSMC's payroll, anticipated date of transition, and manner in which transition shall occur.
4. If applicable to joint RFP Identify for employees shared with other SFAs ():
  - a) Each FSMC position that will be shared with other SFAs;
  - b) The SFAs with whom FSMC employee will be shared; and
  - c) The percentage of time FSMC employee will work at each SFA.

Staffing for **program without participation in Healthy Meals for All:**

	<b>Kitchen Mgr</b>	<b>Cook/Server FTE</b>	<b>SFA/FSMC</b>
Breckenridge Elem	1	0	SFA
Upper Blue Elem	1	.62	SFA
Frisco Elem	1	0	SFA
Silverthorne Elem	1	1.94	SFA
Summit Cove Elem	1	.62	SFA
Dillon Valley Elem	1	1.62	SFA
Summit Middle School	1	2.62	SFA
Summit High School	1	4.485	SFA
Permanent Substitute	1		SFA

Staffing for **program with participation in Healthy Meals for All:**

	<b>Kitchen Mgr</b>	<b>Cook/Server FTE</b>	<b>SFA/FSMC</b>
Breckenridge Elem	1	.5	SFA
Upper Blue Elem	1	1.0	SFA
Frisco Elem	1	.5	SFA
Silverthorne Elem	1	1.94	SFA
Summit Cove Elem	1	1.0	SFA
Dillon Valley Elem	1	2.0	SFA
Summit Middle School	1	2.62	SFA
Summit High School	1	4.485	SFA
Permanent Substitute	1		SFA

**Chart 2:** Participation Data for free, reduced-price and paid meals for current year. Include count of adult breakfasts and lunches and indicate daily number, if any, of “no-cost” food service staff meals which are not charged.

**2022-2023 Chartwells Summit School District RE-1**

Sales & Participation

By Student Building Assignment

8/15/22 thru 2/27/23

Building #		BREAKFAST						LUNCH						Total	
		Free	Reduced	Paid	Adult	AlaCarte	Subtotal	Free	Reduced	Paid	Adult	AlaCarte	Subtotal	Sales\$	Reimb\$
08372	Participation	56	10	947	0	3		454	259	8925	53	2601			
	Part. %	6.03	2.04	4.55	0	0		48.87	52.75	42.93	0	0			
	Sales \$	0.00	0.00	946.00	0.00	2.60	948.60	0.00	0.00	29006.25	63.00	1957.75	31027.00	31975.60	5633.03
08370	Participation	3162	1257	1761	356	357		10014	6368	10142	978	890			
	Part. %	22.6	14.46	7.36	0	0		71.57	73.27	42.41	0	0			
	Sales \$	0.00	0.00	1761.00	2.50	3.10	1766.60	0.00	0.00	32961.50	1728.00	341.30	35030.80	36797.40	61205.56
08374	Participation	727	272	422	0	0		2357	764	10033	110	306			
	Part. %	22.7	24.64	1.99	0	0		73.61	69.2	47.33	0	0			
	Sales \$	0.00	0.00	422.00	0.00	0.00	422.00	0.00	0.00	32591.00	490.50	184.30	33265.80	33687.80	14673.80
08376	Participation	7062	3338	5234	2	12		11177	4711	8647	745	917			
	Part. %	51.95	55.92	27.52	0	0		82.21	78.92	45.47	0	0			
	Sales \$	0.00	0.00	5233.00	5.00	6.40	5244.40	0.00	0.00	28099.50	1894.50	847.60	30841.60	36086.00	72083.95
08304	Participation	118	112	167	0	0		297	268	1354	0	85			
	Part. %	8.76	14.91	2.31	0	0		22.05	35.69	18.69	0	0			
	Sales \$	0.00	0.00	167.00	0.00	0.00	167.00	0.00	0.00	4725.00	0.00	116.45	4841.45	5008.45	2531.78
08385	Participation	1955	998	2301	86	0		3818	2492	7215	112	1155			
	Part. %	40.56	31.13	13.71	0	0		79.21	77.73	42.99	0	0			
	Sales \$	0.00	0.00	2301.00	215.00	0.00	2516.00	0.00	0.00	23442.25	463.50	969.40	24875.15	27391.15	26548.62
08378	Participation	2697	2011	2651	25	225		8875	6331	18571	395	28875			
	Part. %	13.34	13.54	2.83	0	0		43.91	42.63	19.83	0	0			
	Sales \$	0.00	0.00	2649.00	62.50	596.75	3308.25	0.00	0.00	69622.50	1066.50	64254.55	134943.55	138251.80	59543.00
08377	Participation	5635	4001	5289	0	75		12099	8388	19178	415	1409			
	Part. %	28.21	30.16	9.34	0	0		60.56	63.23	33.87	0	0			
	Sales \$	0.00	0.00	5289.00	0.00	76.50	5365.50	0.00	0.00	67112.50	4.50	18486.10	85603.10	90968.60	83810.68
08993	Participation	2039	1271	2069	20	16		3600	3031	7447	1061	1076			
	Part. %	37.44	29.28	12.72	0	0		66.1	69.82	45.78	0	0			
	Sales \$	0.00	0.00	2069.00	43.50	12.10	2123.60	0.00	0.00	34202.75	4027.50	1052.05	29282.30	31405.90	27862.39
TOTAL:	Participation	23451	13270	20841	489	688		52691	32612	91512	3869	37314			
	Part. %	28.08	25.19	7.56	0	0		63.09	61.92	33.22	0	0			
	Sales \$	0.00	0.00	20837.00	327.50	697.45	21861.95	0.00	0.00	311763.25	9738.00	88209.50	409710.75	431572.70	353892.81
AVG:	Participation	2606	1474	2316	54	76		5855	3624	10168	430	4146			
	Part. %	28.08	25.19	7.56	0	0		63.09	61.92	33.22	0	0			
	Sales \$	0.00	0.00	2315.22	36.39	77.49	2429.11	0.00	0.00	34640.36	1082.00	9801.06	45523.42	47952.52	39521.42

**Chart 3** Prices for student and adult meals (Include projected meal price increases). Attach or describe the SFA’s charge policy for student meals if a child does not have the cost of their meal with them at the POS. Information on the USDA required unpaid meal charges policy is at: <http://www.cde.state.co.us/nutrition/financialunpaidmealcharges> .

**Summit School District RE-1**

**Meal Prices – School Year 2023-24**

	Grade	Breakfast	Lunch
Elementary	K-5	\$2.25	\$3.25
Middle School	6-8	\$2.25	\$3.50
High School	9-12	\$2.25	\$3.75
Adult		\$2.50	\$4.50

\*If Summit School District implements the Healthy School Meals for All program, no students will be charged for meals in SY23-24.

**Chart 4:** Chart/copies of Reimbursement Claims for Current and Prior School Year

**Food Service Lunch Revenue Reasonableness  
June 30, 2022**

Month	Number of			Total Lunches	Federal Reimbursement	Federal Receivable	K-12	K-5
	Free Lunches	Reduced Lunches	Paid Lunches				Reduced State Reimb	Reduced State Rec
Aug	17,730			17,730	\$ 76,549.27	-	-	-
Sept	42,250			42,250	\$ 182,414.37	-	-	-
Oct	38,204			38,204	\$ 164,945.77	-	-	-
Nov	39,506			39,506	\$ 170,567.15	-	-	-
Dec	26,346			26,346	\$ 113,748.85	-	-	-
Jan	33,811			33,811	\$ 154,262.68	-	-	-
Feb	31,740			31,740	\$ 144,813.75	-	-	-
Mar	15,041			15,041	\$ 205,499.56	-	-	-
April	32,377				\$ 147,720.06	-	-	-
May	41,877				\$ 191,063.80	191,063.80	-	-
June	1,471			1,471	\$ 6,711.43	6,711.43	-	-
<b>Total</b>	<b>350,353</b>	<b>-</b>	<b>-</b>	<b>276,099</b>	<b>\$1,558,296.69</b>	<b>197,775.23</b>	<b>\$0.00</b>	<b>-</b>
<b>Prior Yr</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Summit School District  
Food Service Breakfast Revenue Reasonableness  
June 30, 2022**

Month	# of		# of		# of Paid Breakfasts	Total Breakfasts	Federal Reimb	Federal Receivable	Smart	State
	Free Breakfasts	Severe Breakfasts	Free Breakfasts	Red Severe Breakfasts					Start State Reimb	State Receivable
Aug	6,904		1,083			7,987	\$ 19,667.98	-	-	-
Sept	19,337		3,296			22,633	\$ 55,733.76	-	-	-
Oct	15,191		3,067			18,258	\$ 44,960.31	-	-	-
Nov	15,703		1,376			17,079	\$ 42,057.03	-	-	-
Dec	10,254		813			11,067	\$ 27,252.48	-	-	-
Jan	11,736		921			12,657	\$ 32,971.48	-	-	-
Feb	11,867		942			12,809	\$ 33,367.44	-	-	-
Mar	16,312		1,480			17,792	\$ 46,348.16	-	-	-
April	12,890		1,253			14,143	\$ 36,842.51	-	-	-
May	17,196		1,613			18,809	\$ 48,997.44	48,997.44	-	-
June	569		59			628	\$ 1,635.93	\$ 1,635.93	-	-
							\$ -	-	-	-
<b>Total</b>	<b>137,959</b>	<b>15,903</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>153,862</b>	<b>389,834.52</b>	<b>50,633.37</b>	<b>-</b>	<b>-</b>
<b>Prior Year</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Summit School District  
Food Service Summer Revenue Reasonableness  
June 30, 2022

Month	# of Breakfasts	# of Lunches	Total Meals	Federal Reimb	Federal Receivable
Jul-21	1,843	1,950	3,793	12,957.52	-
Aug-21	453	485	938	3,209.51	-
Jun-22	1,634	1,634	3,268	11,711.70	11,711.70
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
			-	-	-
<b>Total</b>	<b>3,930</b>	<b>4,069</b>	<b>7,999</b>	<b>\$27,878.73</b>	<b>\$11,711.70</b>
<b>Prior Year</b>	<b>101,456</b>	<b>131,276</b>	<b>232,732</b>	<b>\$808,557.92</b>	<b>\$170,222.62</b>

Summit School District  
Food Service Breakfast Revenue Reasonableness  
June 30, 2023

Month	# of Free Breakfasts	# of Severe Free Breakfasts	# of Red. Severe Breakfasts	# of Reduced Breakfasts	# of Paid Breakfasts	Total Breakfasts	Federal Reimb	Federal Receivable	Smart Start State Reimb	State Receivable
Aug	1,317	24	548	11	1,194	3,094	\$ 5,487.95	-	167.70	-
Sept	3,824	108	2,122	51	3,561	9,666	\$ 17,363.76	-	651.90	-
Oct	3,790	110	2,262	42	3,636	9,840	\$ 17,629.16	-	691.20	-
Nov	3,752	121	2,295	52	3,415	9,635	\$ 17,539.87	-	704.10	-
Dec	2,503	92	1,451	33	2,214	6,293	\$ 11,501.48	-	445.20	-
Jan	4,473	191	2,609	52	4,013	11,338	\$ 20,666.32	-	798.30	-
Feb						-	\$ -	-	-	-
Mar						-	\$ -	-	-	-
April						-	\$ -	-	-	-
May						-	\$ -	-	-	-
June						-	\$ -	\$ -	-	-
						-	\$ -	-	-	-
<b>Total</b>	<b>19,659</b>	<b>646</b>	<b>11,287</b>	<b>241</b>	<b>18,033</b>	<b>49,866</b>	<b>90,188.54</b>	<b>-</b>	<b>3,458.40</b>	<b>-</b>
<b>Prior Year</b>	<b>137,959</b>	<b>15,903</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>153,862</b>	<b>389,834.52</b>	<b>50,633.37</b>	<b>-</b>	<b>-</b>

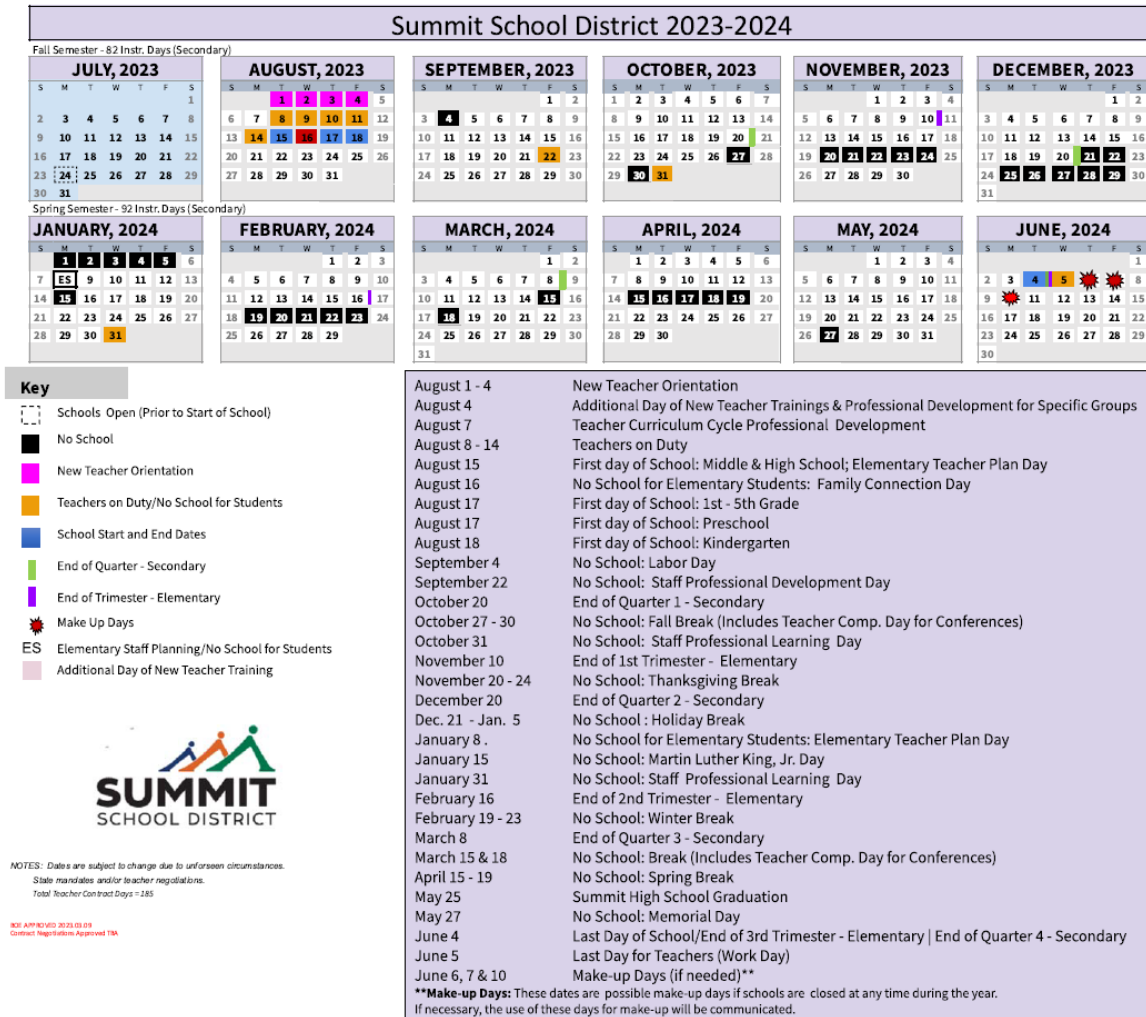
Food Service Lunch Revenue Reasonableness  
June 30, 2023

Month	Number of			Total Lunches	Federal		K-12	K-5
	Free Lunches	Reduced Lunches	Paid Lunches		Reimbursement	Receivable	Reduced State Reimb	Reduced State Rec
Aug	4,590	2,043	8,291	14,924	\$ 35,481.68	-	817.20	-
Sept	9,249	5,448	16,501	31,198	\$ 76,660.42	-	2,179.20	-
Oct	8,816	5,566	14,870	29,252	\$ 73,837.72	-	2,226.40	-
Nov	8,142	5,409	14,021	27,572	\$ 69,514.16	-	2,163.60	-
Dec	5,425	3,545	9,462	18,432	\$ 46,182.40	-	1,418.00	-
Jan	9,940	6,510	17,318	33,768	\$ 84,660.80	-	2,604.00	-
Feb	-	-	-	-	\$ -	-	-	-
Mar	-	-	-	-	\$ -	-	-	-
April	-	-	-	-	\$ -	-	-	-
May	-	-	-	-	\$ -	-	-	-
June	-	-	-	-	\$ -	-	-	-
<b>Total</b>	<b>46,162</b>	<b>28,521</b>	<b>80,463</b>	<b>155,146</b>	<b>\$386,337.18</b>	<b>-</b>	<b>\$11,408.40</b>	<b>-</b>
Prior Yr	350,353	-	-	276,099	\$1,558,296.69	\$197,775.23	\$0.00	\$0.00

Summit School District  
Food Service Summer Revenue Reasonableness  
June 30, 2023

Month	# of Breakfasts	# of Lunches	Total Meals	Federal Reimb	Federal Receivable
Jul-22	1,634	1,634	3,268	11,711.69	-
Aug-22	860	860	1,720	6,164.05	-
Jun-23	-	-	-	-	-
	-	-	-	-	-
	-	-	-	-	-
	-	-	-	-	-
	-	-	-	-	-
	-	-	-	-	-
	-	-	-	-	-
<b>Total</b>	<b>2,494</b>	<b>2,494</b>	<b>4,988</b>	<b>\$17,875.74</b>	<b>\$0.00</b>
Prior Year	3,930	4,069	7,999	\$27,878.73	\$11,711.70

**Chart 5:** School Calendar for 2023-2024. If SFA does not have an approved school calendar, submit projected school calendar.



**Chart 6:** Designation of Program Expenses

The column selected by the SFA for each expense represents whether the SFA or FSMC is responsible for that cost.

DESCRIPTION	FSMC	SFA	N/A*
<b>FOOD:</b>			
Food Purchases	x		
USDA Foods Processing Charges	x		
Processing and Payment of Invoices	x	x	
<b>LABOR:</b>			
<b>FSMC EMPLOYEES:</b>			
Salaries/Wages	X		
Fringe Benefits and Insurance	X		
Retirement	X		
Payroll Taxes	X		
Workers' Compensation	X		
Unemployment Compensation	X		
<b>SFA EMPLOYEES:</b>			
Salaries/Wages		X	
Fringe Benefits and Insurance		X	
Retirement		X	
Payroll Taxes		X	
Workers' Compensation		X	
Unemployment Compensation		X	
<b>OTHER EXPENSES:</b> Direct Cost items may or may not apply. The SFA should assign cost responsibility or designate as not applicable based upon actual practice and need.			
Paper/Disposable Supplies	X		
Cleaning/Janitorial Supplies	x	x	
Trays/Dishes/Flatware/Cups: Initial Inventory	x	x	
Replacement during Operation			
Telephone: Local		X	
Long Distance		X	
Cellular Phones			x
Utilities: heat (Heat, power, water and sanitation)		X	
Uniforms		x	
Linens		x	
Laundry		x	
Trash Removal:			
From Kitchen		X	
From Dining Area		X	
From Premises		X	
Pest Control		X	
Equipment Replacement:			
Nonexpendable		X	
Expendable		X	
Equipment Repair		X	
Vehicle Rental (Include Explanation in RFP)			X
Vehicle Maintenance			X
Courier Service (i.e., Bank Deposits, School Deliveries)			X



Storage Costs: Food			X
Supplies			X
Office Supplies	X		
Printing	X		
Promotional Materials	X		
Mileage	X		
Lodging	X		
Per Diem	X		
Taxes			
Sales			X
Other			X
License Fees			X
Coordinate/provide/conduct trainings in accordance with Professional Standards (2 CFR 210.30).			
Documentation of SFA employees' training hours to meet Professional Standards. FSMC is responsible for FSMC staff.			
Other: <i>Overhead expenses incurred by FSMC cannot be included)</i>			
<b>CLEANING RESPONSIBILITIES:</b>			
Food Preparation Areas & Equipment		X	
Serving Areas		X	
Kitchen Areas		X	
Dining Room Floors		X	
Periodic Waxing and Buffing		X	
Daily Routine Cleaning of Dining Room Tables & Chairs		X	
Thorough Cleaning of Dining Room Tables & Chairs		X	
Cafeteria Walls		X	
Kitchen Walls		X	
Light Fixtures		X	
Windows		X	
Window Coverings		X	
Restrooms for Food Service Employees		X	
Grease Traps		X	
Hoods		X	
Grease Filters		X	
Duct Work		X	
Exhaust Fans		X	
Other:		X	

## **Exhibit E: FOOD SPECIFICATIONS**

1. All Food Specifications must meet requirements of the 7 CFR 210.16, 7 CFR 210.10, 7 CFR 225.16, *Food Buying Guide* ("FBG"), and Colorado State Board of Education Rules.
2. All USDA-donated USDA Foods offered to the SFA and made available to FSMC are acceptable and should be utilized in as large a quantity as may be efficiently utilized.
3. No payment is to be made for meals that do not meet detailed specifications as developed by the SFA for each food component specified in 7 CFR 210.10 or & CFR 225.16, or do not otherwise meet the requirements of the contract. Specification must cover items such a grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

**Exhibit F: METHODOLOGY FOR ALLOCATED COSTS (Applies to Cost Reimbursable Contracts Only)**

FSMC must indicate methodology for allocating costs that are not part of the general and administrative fee.

## **Exhibit G: PLAN FOR UNANTICIPATED SCHOOL CLOSURES**

FSMC must describe its plans to provide meals in the event of an unanticipated school closure. At a minimum, please address the following:

- Capacity to provide school meals to students in the event of a school closure or remote learning
- Staffing plan
- Methodology for fee changes (if applicable)

For information on serving meals during an unanticipated school closure, visit the CDE School Nutrition Unit's Emergency Feeding web page at: <https://www.cde.state.co.us/nutrition/nutriemergencyfeeding>.

## Exhibit H: CONTRACT PROVISIONS FOR SFA CONTRACTS UNDER CNP AWARDS

The SFA's contracts must contain all applicable provisions described in 2 CFR 200 Appendix II, which may include the following:

1. Mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).
  - a) All applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency (EPA) regulations (40 CFR 15)
  - b) Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (the "Act"), 40 U.S.C. § 327-330, as supplemented by Department of Labor regulations, 29 CFR 5.
  - c) Davis Bacon Act (all prime construction contracts in excess of \$2,000)
  - d) Rights to Inventions Made Under a Contract or Agreement
  - e) Equal Employment Opportunity. all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246
  - f) Procurement of recovered materials 2 CFR 200.322; Appendix II (J)
  - g) The following civil rights laws, as amended:
    - i) Title VI of the Education Amendments of 1972;
    - ii) Section 504 of the Rehabilitation Act of 1973;
    - iii) the Age Discrimination Act of 1975;
    - iv) Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and
    - v) FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.
  - h) The Buy American provision for contracts that involve the purchase of food, as required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d).
    - i) The SFA participates in the NSLP and SBP and is required to use the nonprofit food service funds, to the maximum extent practical, 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 using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d).
    - ii) Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing to SFA and approved and will be retained with purchase records. The request must include the:
      - (1) Alternative substitute (s) that are domestic and meet the required specifications:
        - (a) Price of the domestic food alternative substitute (s); and
        - (b) Availability of the domestic alternative substitute (s) in relation to the quantity ordered.
      - (2) Reason for exception: limited/lack of availability or price (include price):
        - (a) Price of the domestic food product; and
        - (b) Price of the non-domestic product that meets the required specification of the domestic product.
2. FSMC has signed the
  - a. Anti-Collusion Affidavit, Exhibit J, which is attached herein and is incorporated by reference and made a part of this Contract.
  - b. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Exhibit I, which is attached herein and incorporated by reference and made a part of this Contract. (7 CFR § 3017.) or SFA includes documentation that FSMC is not listed on governmentwide exclusions in System for Award Management (SAM), which contains the names of parties debarred, suspended, or otherwise excluded by agencies, or declared ineligible under statutory
  - c. Lobbying Certification, Exhibit K, which is attached herein and is incorporated and made a part of this Contract. If applicable, FSMC completed and submitted Standard Form-LLL, Disclosure Form to Report Lobbying, Exhibit M herein, or will complete and submit as required in accordance with its instructions included in Exhibit L.

**Exhibit I: SCHEDULE OF TERMS FOR FSMC GUARANTY**

If guaranty requested by SFA in RFP this section should be modified by the district's legal counsel.

1. The FSMC guarantees revenues in excess of expenditures to the SFA in the amount stated in this contract. The revenues in excess of expenditures shall be determined by the annual independent audit conducted by the audit firm contracted with by the SFA. The revenues in excess of expenditures shall be based on all revenues and expenses set forth in Exhibit C: "Food Service Budget" and any other necessary revenues or expenses generated or incurred in the operation of the SFA's nonprofit Child Nutrition Program. In the event that the actual revenues in excess of expenditures (total revenue from all sources less Total Food Service Cost), including the management fee described in Section J Financial Terms is below the guaranteed amount, the FSMC shall pay to the SFA any shortfall within 30 days of the determination by the SFA of the amount of the shortfall.
2. All expenditures directly or indirectly associated or necessary to provide the SFA with Child Nutrition Program services shall be considered a direct expense to the program budget and included in the revenues in excess of expenditures statement for purposes of determining guaranteed results.
3. All information relating to the SFA's nonprofit Child Nutrition Program budget, revenues and expenses included in this RFP/Contract is provided for FSMC planning purposes. The SFA budget, revenues and expense are subject to change for future years based on market conditions.

**EXHIBIT J: DEBARMENT AND SUSPENSION FORM**

Debarment and Suspension and Other Responsibility Matters Primary Covered Transactions

School Food Authorities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

1. The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
  - a. Are not presently debarred, suspended, proposed for disbarment, 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.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name \_\_\_\_\_ Date \_\_\_\_\_  
 Name and Title of Authorized Representative \_\_\_\_\_  
 Signature of Authorized Representative \_\_\_\_\_

**EXHIBIT K: CERTIFICATION REGARDING LOBBYING**

**Certification Regarding Lobbying: Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal funds. Contractors that apply or bid for such an award must file the required certification.**

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

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, an employee of a Member of Congress, or any Board Member, officer, or employee of [School] Independent School District in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

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, an employee of a Member of Congress, or any Board Member, officer, or employee of [School] Independent School District 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 its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Name/Address of Food Service Management Company/Vendor \_\_\_\_\_

Name/Title of Submitting Official \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**Exhibit L: ANTI-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, of lawful age, being first sworn on oath say, I authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any state official of employees to quantity, quality, or price in the prospective contract, or any other terms of said prospective official concerning exchange of money or other thing of value for special consideration in the letting of contract; that the bidder/contractor had not paid, given or donated, or agreed to pay, give or donate to any officer or employee either directly or indirectly in the procuring of the award of a contact pursuant to this bid.

Signed \_\_\_\_\_

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public (or Clerk or Judge) \_\_\_\_\_

My commission expires \_\_\_\_\_



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## Exhibit M: LIST OF NON-DELEGABLE DUTIES

### Responsibilities that a School Food Authority (SFA) may NOT delegate to a FSMC

Each SFA is legally responsible for the conduct of the school food service program to ensure compliance with the rules and regulations of the CDE-Nutrition Unit and the USDA.

The following summarizes responsibilities that the SFA must complete and may not delegate to the FSMC:

- **On-site inspections:**
  - a. Monitor the food service operation through periodic visits to ensure compliance with the approved FSMC contract.
  - b. Conduct on-site reviews of the lunch counting /claiming system by school
  - c. Follow-up on any lunch counts which show counting discrepancies
- **Control and overall financial responsibility** of the school food service account.
- **Advisory board:** establish and include parents, staff, and students to assist in menu planning.
- **Health certification:** must be maintained to assure that all state and local regulations are met by the FSMC preparing or serving meals at the SFA facilities.
- **Establish all prices:** for food items served under the nonprofit school food service account (e.g., reimbursable meals, a la carte service, and adult meals).
- **Retain signature authority on:**
  - a. Application/agreement to participate in the Child Nutrition Programs including
  - b. Free and reduced-price policy statement; and
  - c. On-line claim system.
  - d. Contractual agreements with the school nutrition program i.e., vending meals to other SFAs, etc. and any commodity processing contracts
  - e. Resolution of all program review and audit findings.
- **Monthly claim for reimbursement**
  - a. Review to ensure accuracy of lunch counts prior to the claim submission.
  - b. Edit check worksheets that compare daily lunch counts by eligibility category. Free and reduced-price meals may not be claimed in excess of the number of students approved for such benefits.
- **Free and Reduced-Price Meal Process**
  - c. Develop, distribute and collect the parent letter and application for free and reduced-price meals and free milk.
  - d. Determination and verification of applications for free/reduced price meals or free milk
  - e. Conduct any hearings related to such determinations.
- **USDA donated foods (Commodities)**
  - f. Monitor that the maximum amount are received and used by the FSMC in the SFA food service.
  - g. Monitor that FSMC credits SFA at least annually for all USDA Donated foods.
- **A la carte food service:** the SFA must also offer free, reduced price and full price reimbursable meals to all eligible children in order to operate an ala carte food service.
- **Healthy School Meals for All:** SFAs opting into this state program are responsible for maximizing federal funding and following the terms provided in their permanent agreement on file with CDE.

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**Exhibit N: Civil Rights**

The vendor hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

Name of Food Service Management Company/Vendor \_\_\_\_\_

Name/Title of Submitting Official \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_