

**Request for Proposals  
School Food Services  
RFP No. 2024-002**

<b>RFP Issued:</b>	<b>Monday, April 1, 2024</b>
<b>Proposals Due:</b>	<b>Not Later than 5:00:00 PM Pacific Time, Friday, May 31, 2024</b> Late proposals will not be accepted or considered.
<b>Submit Proposals via one of the following methods:</b>	<p><b><u>ELECTRONIC SUBMITTAL</u> (Only submit one proposal)</b> Submit One (1) electronic proposal via email: <a href="mailto:nbassen@riverdale.k12.or.us">nbassen@riverdale.k12.or.us</a></p> <p><b>OR</b></p> <p><b><u>HARDCOPY SUBMITTAL</u></b> Submit one (1) original proposal to Nicole Bassen, 11733 S Breyman Ave, Portland, OR 97219</p> <p>The Proposal, including all required documentation, must be submitted <b>not later than 5:00 PM on Friday, May 31, 2024</b> Late Proposals will not be accepted.</p>
<b>Procurement Contact:</b>	<p>Nicole Bassen, Business Manager Email: <a href="mailto:nbassen@riverdale.k12.or.us">nbassen@riverdale.k12.or.us</a> <b>Deadline for Questions: 5:00 PM PST on Monday, May 20, 2024</b></p>

**Purpose:**

The purpose of this Request for Proposals (Solicitation) is to obtain competitive Proposals from qualified vendors to provide food services for Riverdale School District.

**Pre-Proposal Conference:**

A non **mandatory Pre-Proposal Conference** will be held on Wednesday, May 8, 2024, at 1:00 PM Pacific Time at Riverdale Grade School, 11733 S Breyman Ave, Portland, OR 97219. A virtual option will be available. Riverdale School District conducts such meetings to clarify information provided in the RFP and provide interested proposers an opportunity to ask questions about the RFP. Statements made by the District's representatives at the pre-proposal meeting are not binding on the District unless confirmed by written addendum.

**Proposals & Opening:**

Interested Proposers must submit a Proposal pursuant to the provisions of this Solicitation as outlined above **NOT LATER THAN: 5:00 PM, PST on Friday, May 31, 2024**. No public opening will occur. The number of Proposals received, the identity of Proposers, or the contents of any proposal will not be disclosed to the public until all proposals have been evaluated, negotiations completed if required, and a Notice of Intent to Award has been published.

**Interview:**

In addition, selected proposers must be available for an interview if requested with the Selection Committee on Monday, June 10, 2024.

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# ADVERTISEMENT

## REQUEST FOR PROPOSALS

### FOOD SERVICES

Issuance of Request for Proposal: 4/1/2024

Proposals Due: 5/31/2024

RIVERDALE SCHOOL DISTRICT is seeking proposals from qualified vendors to provide food service for our school per the specifications of the solicitation document. The contract period is expected to begin July 1, 2024, with an initial two-year term. A copy of the proposal instructions may be obtained by contacting:

Nicole Bassen  
Business Manager  
11733 S Breyman Ave  
Portland, OR 97219  
nbassen@riverdale.k12.or.us

There will be a non-mandatory pre-proposal meeting on Wednesday, May 8, 2024. A virtual attendance option will be offered. Interested proposers must submit a Proposal pursuant to the provisions of this Solicitation by email or mail to the above contact **NOT LATER THAN**: 5:00 PM, PST on Friday, May 31, 2024.

The District reserves the right to reject any or all proposals.

Published:  
*Lake Oswego Review*  
*Portland Business Tribune*

## I. INTRODUCTION

RIVERDALE SCHOOL DISTRICT is soliciting proposals for Food Services. The District will determine the number of contracts to be awarded at the time of contract award. This determination will be based upon the evaluation of scores underlying the rank of each proposal and the capacity of the proposers and shall be at the sole discretion of the District. The evaluation criteria include but are not limited to, price (overall cost of services to be rendered), proposed menu, quality of management and operations, company stability, service reputation, length of time in business, and safety program. The proposals will be evaluated from the standpoint of capability to best serve the District's needs.

### A. ABOUT THE DISTRICT

RIVERDALE SCHOOL DISTRICT is an independent public school district founded in 1888. Today, Riverdale Grade School (K-8) and Riverdale High School (9-12) serve more than 600 families living. The District is located seven miles south of downtown Portland, Oregon, and adjacent to the City of Lake Oswego.

### B. TIMELINE

ACTIVITY	DATE
Issuance of Request for Proposal	Monday, April 1, 2024
Non-Mandatory Pre-Proposal Conference	Wednesday, May 8, 2024
Deadline for Questions or Clarifications	Monday, May 20, 2024
Final Addenda Deadline	Friday, May 24, 2024
Proposals Due	Friday, May 31, 2024
Interviews (if needed)	Monday, June 10, 2024
Notice of Intent to Award	Friday, June 14, 2024
Contract Award (when is the board meeting)	Monday, June 24, 2024
Anticipated Contract Start	Monday, July 1, 2024

The District reserves the right to deviate from this schedule.

### **C. PRE-PROPOSAL MEETING**

A **Non-Mandatory Pre-Proposal Conference** will be held on Wednesday, May 8, 2024, at 1:00 PM Pacific Time at 11733 S Breyman Ave, Portland, OR 97219. A virtual attendance option is available, see below. Riverdale School District conducts such meetings to clarify information provided in the RFP and provide interested proposers an opportunity to ask questions about the RFP. Statements made by the District's representatives at the pre-proposal meeting are not binding on the District unless confirmed by a written addendum.

Food Service RFP Pre-Proposal Meeting

Wednesday, May 8, 2024 · 1:00 PM - 2:00 PM

Google Meet joining info

Video call link: <https://meet.google.com/qge-kskf-sis>

Or dial: (US) +1 402-859-0132 PIN: 333 480 320#

More phone numbers: <https://tel.meet/qge-kskf-sis?pin=2407011968866>

### **D. QUESTIONS**

All questions or comments regarding this Request for Proposals or related technical issues must be submitted in writing via email to [nbassen@riverdale.k12.or.us](mailto:nbassen@riverdale.k12.or.us). To be considered, questions must be received by the District before the deadline (See Timeline). A written response will be provided to those questions that are deemed appropriate. The response will be in the form of an addendum and will be sent to all firms in receipt of this RFP.

### **E. ADDENDA**

1. Addenda, if any, will be issued anytime up until seven (7) calendar days before the proposal due date.
2. Modifications to this RFP shall be made only by addenda to the solicitation. Verbal or other instructions, interpretations, and changes shall not serve as official expressions of Riverdale School District and shall not be binding. All cost adjustments or other changes resulting from said addenda shall be taken into consideration by Proposer and included in their Proposals. All addenda issued by the District shall be acknowledged by Proposer on the Proposer Certifications and Representations Form.

## **II. SCOPE OF WORK**

### **A. SCOPE OF CONTRACT**

1. Meal Planning and Preparation
  - a) Designing well-balanced menus that meet the nutritional requirements for students of all ages. Including both hot and cold lunch options, field trip sack lunches, and occasional catering.
  - b) Preparing meals in compliance with all food safety and sanitation regulations.
  - c) Accommodating dietary restrictions and special dietary needs as necessary.
  - d) If requested, the Proposer will participate in a menu planning advisory board composed of parents, teachers, and students.
2. Meal Delivery and Service
  - a) Delivering meals to designated serving areas within the school at the agreed-upon times.

- b) Setting up food stations, ensuring proper food presentation, and maintaining cleanliness and organization.
  - c) Training and supervising cafeteria staff, if required, to ensure efficient service.
- 3. Inventory Management and Staffing
  - a) Managing inventory of food, supplies, and equipment to ensure adequate stock levels.
  - b) Monitoring food quality and freshness, and ensuring compliance with expiration dates.
  - c) Provide staff and management to oversee and operate the program.
- 4. Financial Management:
  - a) Provide transparent and accurate financial reports related to food service operations.
  - b) Implementing efficient payment systems for students and staff.
  - c) Comply with District's Free and Reduced-Price Meal Program
- 5. Health & Safety
  - a) The Contractor shall obtain necessary health permits and certification for the facilities. The premises and equipment provided by each party in performance of this Agreement shall comply with all applicable building, safety, sanitation, and health laws; and shall satisfy all permit requirements, ordinances, rules, and regulations, including the federal Occupational Health and Safety Act of 1970 or applicable state act and standards promulgated thereunder.
  - b) Contractor shall take reasonable and proper care of all premises and equipment in its custody and control and shall use them in a manner that will not cause violation of applicable laws, ordinances, rules, and regulations, including any reporting and record-keeping requirements. If at any time the Contractor is notified by an authorized government agency that the premises or equipment are not in compliance with any law, ordinance, rule, or regulation, the Contractor shall immediately inform the Riverdale School District of such notification.

**B. CURRENT SERVICE LEVEL**

The following information is intended to provide Proposers with a general understanding of current District operations and food service requirements within the district. Proposals should meet the requirements specified within this solicitation.

- 1. [DISTRICT MAP](#)
- 2. [SCHOOL CALENDAR](#)
- 3. **CURRENT SCHEDULE**
  - a) School Days: 169 (170 for new HS Students)
  - b) Grade School:
    - (1) 2 lunch sections - 4 total serving times
      - (a) 11:13 am - 12:00 (K-4) - Rotates ½ way through K-2, and then 3rd-4th
      - (b) 12:03 pm - 12:50 (5-8) - Rotates ½ way through, 5-6, and then 7-8
  - c) High School:
    - (1) Snack break

- (a) 10:10 am M, T, W, Th, F
- (2) Lunch
  - (a) 12:45 pm M, T, Th, F
  - (b) 12:35 pm W

Proposers may describe other service alternatives within their proposal. The Successful Proposer will have the opportunity to discuss the implementation of such proposals once under Agreement with the District.

### **C. STAFF**

#### **1. CONTRACTOR STAFF ALL**

- a) **Contractor** shall provide a sufficient and qualified workforce to manage and operate the food service operations. The Contractor will provide a detailed summary of the staffing proposed for the contract.
- b) **Contractor** bears the responsibility of selecting, hiring, training, supervising, disciplining, and discharging employees. In the selection and hiring process, the Contractor shall conduct a nationwide criminal records check in accordance with ORS 326.603 and request the Department of Education to verify whether the department has any ongoing investigation or has a substantiated report relating to conduct by the person that may constitute sexual conduct.
  - (1) The Contractor will be responsible for fingerprinting all employees that come in contact with students in accordance with ORS 181A.200 and OAR 581-021-0500 and other applicable laws, statutes, codes, ordinances, rules, regulations, and lawful orders. The Contractor shall not knowingly employ anyone who has:
    - (a) A felony or misdemeanor conviction within the past 10 years or any conviction for a crime of violence, sexual offense, drug use or sale, child abuse, or child pornography.

### **D. REPORTS**

#### **1. MONTHLY BILLING**

Contractor will provide to the District a monthly billing. Electronic invoices and supporting documents are preferred.

### **E. COST/FEE STRUCTURE**

Rate proposals should include not-to-exceed rates for Breakfast, Snacks, Lunches, and a la carte options presented in the menu being offered. All future meals should fall into the same range unless discussed with the district beforehand.

### **F. RESPONSIBILITIES**

The responsibilities of the food service Contractor include, but are not limited to, the following:

- 1. Preparing and serving meals and meal supplements (snacks) to students;
- 2. Preparing and serving meals to staff, parent organizations, and some scheduled events (conferences, business partnerships, etc.), whether in or out of the Riverdale School District;
- 3. Purchasing food and supplies;
- 4. Except for equipment provided by Riverdale School District, purchasing, maintaining, and repairing all equipment used in the kitchen;
- 5. Maintaining all kitchen areas and working environments in a safe and sanitary condition;



6. Complying with all health requirements including blood pathogen training, safety, and sanitation requirements; and
7. Maintaining full program, financial, and inventory records sufficient to meet federal and state requirements and in accordance with generally accepted accounting principles.

#### **G. PROGRAM GOALS**

1. Provide an appealing and nutritionally sound program for students as economically as possible and set good examples for healthy eating behaviors.
2. Promote educational value and nutritional awareness wherever the food service operation can interface with the District programs.
3. Maintain reasonable, competitive prices in the program.
4. Consistently maximize the use of fresh, whole, seasonal, locally and regionally grown foods.
5. Consistently minimize the use of processed foods and foods that are high in additives, saturated fat, and sodium.
6. Reasonably accommodate the needs of students with special dietary requirements.
7. Include at least one entrée daily that has been prepared fresh from scratch.
8. Demonstrate environmental and energy awareness and responsibility by minimizing waste in any form.
9. Maintain a food service program that is self-supporting.
10. Maintain a well-trained and supportive food service staff that has successfully completed background checks for previous criminal activity and who are certified for safe food handling by the appropriate agency of the State of Oregon.
11. Provide catering as requested for school-related events.
12. Work closely and effectively with the District including its students and teachers.

### **III. PROPOSAL FORMAT, CONTENT, AND SUBMISSION**

#### **A. PROPOSAL FORMAT**

To simplify and expedite the review process each Proposer is asked to submit a proposal in the order and format specified below.

1. Proposal includes a one-page cover letter as the first page of the proposal.
2. Company Qualifications, proposed food, nutrition and wellness programs
3. One-month menu with rates
4. Employee staffing, training and development plan
5. School/Community Involvement and Communications plan
6. Payment System
7. Experience and References
8. Insurance Data
9. Recycling Program
10. Independent Contractor Certification Form
11. Proposer Certification and Representation Form
12. Non-Conflict of Interest Form

#### **B. MULTIPLE PROPOSALS**

No more than one proposal may be submitted by each proposing firm.

### **C. PROPOSAL RESPONSES TO EVALUATION CRITERIA**

In addition to the required proposal forms, the Proposer must include discrete information to address each of the areas listed below which will provide a major basis for evaluation. Proposer is encouraged to include other information not listed that will assist in the understanding of its proposed services and which may distinguish them from its competitors.

**1. COMPANY QUALIFICATIONS – 20 Points**

- a) How many years has the company been in business?
- b) List food service experience with other comparable public school districts.
- c) Describe any present or prior litigation your company has or had with any customer.
- d) We have a la carte options at our HS, are you able to provide that service?
- e) What snacks would be offered at the HS for the morning break?

**2. ONE MONTH MENU WITH RATES – 20 Points**

- a) Please note whether you are quoting on one or both schools, if one please identify which school the proposal is for.
- b) Grade School Lunch
- c) High School Morning Snack
- d) High School Lunch
- e) A la carte options
- f) Staff lunches if different from the above

**3. EMPLOYEE STAFFING AND TRAINING – 20 Points**

- a) Describe the proposed staffing plan for the Grade School and High School.
- b) Describe employee training and development programs.
- c) In case of absences, what is your emergency plan for coverage and service?

**4. SCHOOL COMMUNITY INVOLVEMENT AND COMMUNICATIONS PLAN – 20 Points**

- a) Explain how you intend to involve and communicate with staff, students, and parents about the food service program.
- b) Describe how you would accommodate schedule changes at the GS and HS (field trips, assemblies etc.)
- c) How flexible can you be in response to parent and student feedback about meal options?

**5. PAYMENT SYSTEM – 20 Points**

- a) Describe the payment system that families and staff would use to pay for the meals.
- b) Is there an option to place upfront monthly orders as well as on-demand orders?

**6. FACILITIES**

If not using Riverdale's kitchens, provide a detailed description of Proposer's facilities.

**7. INSURANCE DATA**

- a) Provide copies covering Workers' Compensation, commercial general liability, automobile liability, umbrella excess liability, additional insured working, and hold harmless wording.
- b) Provide the names and addresses of the insurance companies, insuring your operation for: Commercial General Liability and Property Damage, Automobile Liability, Umbrella/Excess Liability and Workers' Compensation.

8. **REFERENCES**

Provide three (3) professional references from projects similar to the scope of this solicitation. K-12 school district references shall be preferred. Provide the name, telephone number, and email address of each reference. These contacts will be used by the District for reference checks.

**D. PROPOSAL SUBMISSION**

All proposals shall be emailed or mailed to:

Nicole Bassen, Business Manager  
Proposal for Food Services  
11733 S Breyman Ave  
Portland, OR 97219  
nbassen@riverdale.k12.or.us

Proposals are strongly encouraged to be sent by email with a subject line "Proposal for Food Services". If submitting by Hardcopy, proposals must be submitted in a sealed envelope with the name and address of the Proposer and the title of the proposal ("Proposal for Food Services") must appear on the outside of said envelope. **The District must receive all proposals no later than 5:00 PM PST on Friday, May 31, 2024.** Delivery is the sole responsibility of the proposer. The proposer accepts all risks of late delivery of mailed proposals or miss-delivery regardless of fault. All proposals received after the date and time indicated above will be returned unopened. ***Facsimile (fax) transmissions of proposals and postmarks will not be accepted.***

**IV. PROPOSAL EVALUATION AND AWARD**

**A. CLARIFICATION OF RESPONSES**

In the event that one or more proposals are in need of clarification, the District will request such clarification in writing and will afford the Proposer(s) contacted an opportunity to respond in kind, with the necessary clarification.

## B. PROPOSAL EVALUATION

Proposals will be evaluated by a selection committee of not less than three (3) individuals. Each evaluator will independently evaluate and score proposals in accordance with the Evaluation Criteria listed below. All proposals from qualified contractors that provide the minimum required qualifications and that pass the financial strength tests will then be evaluated on the following criteria:

Criteria	Points Available
1. Company Qualifications	20
2. Menu and Rate proposals	20
3. Employee Staffing and Training	20
4. School Community Involvement and Communications Plan	20
5. Payment System	20
<b>SUB-TOTAL (without interview)</b>	100
14. Interview (if required)	20
<b>TOTAL (including interview)</b>	120

### 1. RANKING OF PROPOSALS

Evaluations will be scored by rank. The highest-ranked proposal will be determined as follows:

- a) Each evaluator will assign a ranking to each proposal, based on the total score he or she awarded each proposal based on the evaluation criteria points.
- b) The proposal to which the evaluator awarded the most points will receive an Evaluator Final Rank of 1. The proposal to which the evaluator awarded the second most points will receive an Evaluator Final Rank of 2, and so forth.
- c) The District will then sum the Evaluator's Final Ranks for each proposal. The proposal with the lowest total final rank (the sum of all Evaluator Final Ranks) will be ranked first. The proposal with the second lowest final rank will be ranked second, and so on. The proposal with the highest final rank will be ranked last.

### 2. INTERVIEW EVALUATIONS

If necessary for completing the selection, finalists will be selected for an interview. This will provide an opportunity to clarify or elaborate on the proposal, but will in no way provide an opportunity to change any fee amount originally proposed.

### 3. BEST AND FINAL OFFER

The District at its sole discretion reserves the right to either: a) request "Best and Final Offers" from the two highest scoring vendors and award to the lowest priced or b) to re-assess the proposals and award to the vendor determined to best meet the overall needs of the District.

4. **REFERENCES**

The District reserves the right to investigate references, including customers other than those listed in a Proposer's submission. This inquiry may include without limitation, an investigation of past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and its lawful payment of employees and subcontractors.

**C. AWARD**

Pursuant to OAR 137-47-0600

1. Award in part or in whole is contingent upon available funding. In the event adequate funds are not appropriated and allocated by the School Board, the District reserves the right to cancel any Solicitation at no penalty.
2. The District may award all or none Offers if the evaluation shows an all or none Award to be the most Advantageous or in the best interest of the District.
3. The District may reject all or part of the Proposals and may issue a new Solicitation on the same or revised terms, conditions, and Specifications.
4. When Proposals are identical the District must Award the contract Pursuant to OAR 137-046-0300

**D. NOTICE OF INTENT TO AWARD**

The District will provide a written Notice of Intent to Award (NOI) to all Proposers at least seven (7) calendar days before the Award of a Contract, unless the District determines that circumstances require prompt execution of the Contract. The District's Award will not be final until the later of the following:

1. SEVEN (7) calendar days after the date of the NOI, or
2. Until the District provides written response(s) to all timely filed protest(s) denying the protest(s) and affirming the Award.

**V. SOLICITATION TERMS AND CONDITIONS; PROTEST OF SOLICITATION OR AWARD**

**A. PROPOSAL COST**

Proposers responding to solicitations are responsible for all costs that they may incur in connection with submitting proposals.

**B. SUBMITTED MATERIALS**

All materials submitted for any proportion of a Proposal in response to this RFP become the property of the District and will not be returned to proposers.

**C. PROPOSAL VALIDITY PERIOD**

Each proposal shall be irrevocable for a period of sixty (60) days from the Proposal Due Date.

**D. SOLICITATION CANCELLATION, REJECTION OF A PROPOSAL OR ALL PROPOSALS**

The District may cancel the Procurement or reject any or all Proposals in accordance with ORS 279B.100.

The District is not liable to any Proposer for any loss or expense caused by or resulting from the cancellation of a solicitation or rejection of a Proposal.

**E. PREFERENCE FOR RECYCLED MATERIALS**

Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

**F. PROTEST**

**1. PROTEST OF SOLICITATION OR CONTRACT DOCUMENTS**

- a) Any Proposer wishing to protest this RFP or any provision, specification, or contract term herein in accordance with ORS 279B.405, must submit such questions, comments or protest to the Procurement Contact listed on the first page of this RFP
- b) The deadline for submitting such protests is the same date as the deadline for questions listed on the first page of this RFP

**2. CONTENT OF SOLICITATION PROTEST**

The prospective Proposer's written solicitation protest must include all of the following:

- a) Sufficient information to identify the solicitation that is the subject of the protest;
- b) The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a Brand Name;
- c) Evidence or supporting documentation that supports the grounds on which the protest is based; and
- d) A statement of the desired changes to the Procurement process or the solicitation document that the prospective Proposer believes will remedy the conditions upon which the prospective Proposer based its protest.

**3. PROTEST OF CONTRACT AWARD**

In accordance with ORS279B.410, any adversely affected Proposer has seven (7) calendar days from the date of the written notice of intent to award to file a written protest.

- a) All protests must be in writing and physically received by the Procurement Contact listed on the first page of this RFP no later than 5:00 PM PST on the seventh (7th) calendar day after the posted Notice of Intent to Award.
- b) The Proposer's protest must specify the grounds for the protest to be considered by the District pursuant to ORS 279B.410(2)
- c) The District will not consider any protest that is submitted after the submission deadline.

**G. PROPOSAL RESULTS**

The District is subject to the Oregon Public Records Law (ORS 192.410 to 192.505), which requires the District to disclose all records generated or received in the transaction of District business, except as expressly exempted in ORS 192.501, 192.502, or other applicable law.

1. Proposals will not be made a part of the public record until after the selection process is completed at which time they will be available for public review
2. The District may withhold from disclosure confidential information pursuant to ORS 192.501 or 192.502

## **VI. CONTRACT TERMS AND CONDITIONS**

### **A. TERM**

1. District will award a contract for an initial two-year period. This initial term shall begin on July 1, 2024, and expire on June 30, 2026. The contract may be extended in years subsequent to the initial contract by mutual written agreement of the parties. Such extensions must be agreed upon by March 31 of the final contract year or the contract will expire at the ending date of the term then in effect.

### **B. DEFINITIONS**

1. For the purposes of this agreement, the following terms are defined as:
  - a) "FSMC" or "Contractor" means Food Service Management Company
  - b) "LEA" or "District" means Riverdale School District

### **C. MANAGEMENT AND PERSONNEL**

1. **Work Performed on LEA Property.** FSMC Personnel shall comply with the following:
  - a) **Identification.** After FSMC Personnel who will work on LEA property have successfully passed a criminal background check in accordance with this Contract, LEA will issue to such FSMC Personnel a LEA identification badge or other identification for authorized access to LEA facilities. Upon a mutually agreed upon start date when performing work on LEA property, the FSMC shall be in appropriate work attire (or uniform, if applicable) at all times. If FSMC does not have a specific uniform, then LEA may, if reasonably necessary, require FSMC to provide FSMC-issued identification tags and/or any other identification mechanism in addition to LEA- issued identification that LEA in its sole discretion determines is required to easily identify FSMC Personnel. FSMC Personnel shall (i) display on their clothes the above-mentioned identifying information and (ii) carry photo identification and present it to any LEA personnel upon request. If FSMC cannot produce such identification or if the identification is unacceptable to LEA, LEA may provide at its sole discretion, LEA-produced identification tags to FSMC, costs to be borne by FSMC.
  - b) **Sign-in Required.** Any FSMC Personnel present in LEA facilities who have not yet received LEA- issued identification must sign into the location's main office to receive an in-school visitor tag. FSMC Personnel who have received and wear LEA-issued identification are not required to sign in.
  - c) **No Smoking.** All LEA facilities are tobacco-free zones. FSMC Personnel are prohibited from using any tobacco product in LEA facilities.
  - d) **No Drugs.** All LEA facilities are drug-free zones as enforced by the Portland Police Bureau.

- e) No Weapons or Firearms. Except as provided by statute and LEA policy, all LEA facilities are weapons- and firearms-free zones. FSMC Personnel are prohibited from possessing on their persons or in their vehicles any weapons or firearms while in LEA facilities.
- 2. **FSMC Employees.** The FSMC shall provide sufficient and qualified management and professional employees to manage the food service operations and supervise all FSMC Personnel employed therein. All non-management food service employees shall be employees of FSMC. The FSMC managers shall direct and supervise the food service employees.
- 3. **Payroll, Taxes, and Other FSMC Personnel Costs.** The FSMC shall prepare and process the payroll for and shall pay its FSMC Personnel directly. The FSMC is solely responsible for the payment of all wages, premiums, contributions, assessments, taxes, and other financial obligations and, to the extent applicable, withholding all taxes, premiums, and other amounts with respect to FSMC Personnel working in the performance of this Contract. FSMC agrees to furnish LEA, upon request, a certificate or other evidence of compliance with such financial obligations.
- 4. **Employee Removal.** FSMC shall immediately remove any FSMC Personnel from LEA facilities and from working on this Contract when LEA reasonably determines that removal of such FSMC Personnel is necessary to promote health, safety, or compliance with Applicable Laws.
- 5. **Workers' Compensation Insurance.** Pursuant to ORS Chapter 656, FSMC shall provide workers' compensation coverage for all subject workers. FSMC shall submit a certificate of insurance to LEA showing proof of coverage.

#### ***D. BREACH, DEFAULT, AND REMEDIES***

- 1. **Breach; Cure Period.** If either party materially breaches the terms and conditions of this Contract, the breaching party must cure such breach, if amenable to cure, or use reasonable efforts to cure promptly if not amenable to cure, within ten (10) business days of written notice of such breach from the injured party. The breaching party shall be in default if it fails to cure the material breach or use reasonable efforts to cure promptly if not amenable to cure within the cure period.
- 2. **Remedies.** In the event of default of this Contract by LEA, FSMC's remedy shall be limited to termination of this Contract under the circumstances and in accordance with the requirements described in this Contract. In the event of default of this Contract by FSMC, LEA shall be entitled to any remedy described in this Contract in addition to any available remedy at law or in equity.
- 3. **Termination.** This Contract may be terminated in the following circumstances and in accordance with the following requirements:
  - a) Termination by Agreement. This Contract may be terminated at any time by written mutual agreement of the parties in accordance with the terms of such agreement.
  - b) Termination for Convenience. LEA may terminate this Contract for any or no reason in its sole discretion by giving 30 days' written notice of termination to FSMC.



- c) Termination Due to Force Majeure. LEA may terminate this Contract due to Force Majeure by giving 30 days' written notice of termination to FSMC determination after LEA's determination that Force Majeure will reasonably prevent the successful performance of the Contract.
  - d) Termination for Default. Upon default of either party as described above, the injured party may immediately terminate this Contract by written notice of termination to the defaulting party.
4. **Obligations Upon Termination.** Upon termination of this Contract, either by expiration or early termination
- a) LEA must pay FSMC for work performed in accordance with this Contract prior to the termination date less any offset allowed under this Contract;
  - b) FSMC will provide LEA a copy of all records pertaining to FSMC's performance of this Contract, including, but not limited to, daily meal and food purchase counts by program category and by site as well as total revenue earned by FSMC under this Contract; and
  - c) FSMC shall return all keys and identification badges to LEA, repair all damage caused by FSMC and FSMC Personnel, and surrender the LEA facilities vacuumed, swept, and free of debris and in the same condition as at the commencement of the term subject only to reasonable wear from ordinary use. FSMC shall remove all of its furnishings, equipment, and trade fixtures that remain its property and shall repair all damage resulting from such removal. Failure to remove such furnishings, equipment, and trade fixtures shall be an abandonment of the property, and, following ten (10) days' written notice to FSMC, LEA may remove or dispose of it in any manner without liability and recover the cost of removal and other damages from FSMC.
5. **Nonperformance.** Notwithstanding any other remedy described in this Contract, if FSMC fails to perform the work required under this Contract and does not cure such failure, then LEA may complete perform the services itself, obtain the services from other sources or contractors, or a combination thereof as necessary. FSMC shall reimburse LEA for all costs incurred to perform or obtain these services.

#### ***E. GENERAL TERMS AND CONDITIONS***

1. **Applicable Laws.** The FSMC agrees that it will perform the work described in this Contract in full compliance with all Applicable Laws. For the sake of clarity without limiting the foregoing, Laws may pertain, but are not limited to, sanitation, health, and safety of the food service operations. The LEA shall cooperate, as necessary, with FSMC's compliance efforts.
2. **Records.** FSMC agrees that LEA and its authorized representatives are entitled to review all FSMC books, documents, papers, plans, and records, electronic or otherwise ("Records"), related to this Contract for the purpose of making audit, examination, excerpts, and transcripts upon five (5) business days' advance written notice. FSMC shall maintain all Records, fiscal and otherwise, related to this Contract in accordance with generally accepted accounting principles to clearly demonstrate FSMC's performance of work in accordance with the requirements of this Contract.

- a) FSMC shall retain and keep accessible all Records for a minimum of the latest of (i) three (3) years following final payment under this Contract, (ii) three (3) years following termination of this Contract, (iii) three (3) years following the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, or (iv) or such longer period as may be required by law.
  - b) FSMC acknowledges that this Contract is subject to the requirements of Oregon public records law (ORS 192.410 – 192.505). Information exchanged between the parties may be subject to public disclosure. LEA is not in breach of any provision of the Contract if, pursuant to the LEA's interpretation of public records law, it discloses or maintains records of any information provided by FSMC. Notwithstanding anything to the contrary in this Contract, LEA's may notify FSMC by email of a public records request.
3. **FERPA.** The Family Education Rights and Privacy Act (20 USC § 1232g) and its implementing regulations (34 CFR Part 99), collectively "FERPA," prohibits the re-disclosure of confidential student education records. FSMC agrees to protect the confidentiality of education records, including personally identifiable information found in education records, in compliance with FERPA. FSMC acknowledges that student information disclosed by LEA and its employees, parents, and students to FSMC is subject to FERPA, and FSMC will receive such information as a "school official" under FERPA. FSMC will hold all FERPA-protected information it receives in confidence and will not use personally identifiable information from student education records it receives for any purpose other than performing its obligations under this Contract. FSMC will not disclose or re-disclose any personally identifiable information from student education records obtained from LEA or collected by FSMC in the performance of this Contract (a) without the express written authorization of LEA, or (b) unless required by law, but only to the extent permitted by law and only in the manner prescribed by law. If FSMC receives a court order or subpoena seeking education records or information contained in education records, it shall immediately notify LEA in writing. If FSMC re-discloses personally identifiable information from education records on behalf of LEA in response to an order or subpoena under 34 CFR § 99.31(a)(9), FSMC must provide the advance notification required under 34 CFR § 99.31(a)(9)(ii). LEA will assist FSMC with complying with this notification requirement.
4. **Protection of Records.** FSMC must treat all LEA information, records, and property contained in or on LEA property as protected and confidential. FSMC and FSMC Personnel may not (i) make any unauthorized disclosure of protected information or records; or (ii) remove any LEA records, material, or property without LEA authorization.
5. **Hazardous Materials.** FSMC shall comply with Oregon Occupational Safety and Health statutes and rules. This includes, but is not limited to, mandatory notification of LEA before using any products containing hazardous materials which may release, or otherwise result in exposure to a hazardous chemical under normal conditions of use or to which LEA employees, students, or the general public may be exposed. Products containing hazardous materials are those products defined by Oregon Administrative Rules, Chapter 437. Upon LEA's request, FSMC must immediately provide Material Safety Data Sheets to LEA for all materials subject to this provision.

6. **Debarment.** FSMC represents and warrants that it has never been and will not be debarred from receipt of federal, state, or local grants or contracts.
7. **Independent Contractor Status.** By its signature on this Contract and the attached Exhibit B, FSMC certifies that the services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600 and that FSMC is solely responsible for the work performed under this Contract. FSMC represents and warrants that FSMC and FSMC Personnel are not officers, agents, employees, partners, joint venturers, or tenants of the LEA and they are not officers, employees, or agents of LEA within the meaning of the Oregon Tort Claims Act (ORS 30.260 through 30.300). To the extent that the state or federal statutes or regulations require that FSMC be an agent of LEA for certain regulatory purposes, such statutes and regulations shall be controlling and the FSMC shall be the LEA's agent, but only to the extent required and necessary.
8. **Data Security.** FSMC's performance of this Contract will include the electronic transfer of data regarding students, staff, and others. FSMC must implement industry accepted and appropriate steps to ensure the security and confidentiality of electronic data. In the course of its performance of this Contract, FSMC will have access to or collect, use, store, process, dispose of, disclose, or otherwise influence the security of credit, debit, or other payment cardholder information. FSMC shall, at its own cost and expense: (i) take responsibility for the security of said cardholder information; (ii) on an annual basis, provide LEA with an Attestation of Compliance (AOC); (iii) notify LEA if FSMC falls out of compliance with PCI DSS requirements within seven (7) days; and (iv) if FSMC detects unauthorized access to cardholder data: (a) notify LEA within 24 hours and (b) comply with all Applicable Laws requiring notification, protection, and support of cardholders.
9. **Insurance.** FSMC must obtain insurance as described hereafter and keep such insurance in force during this Contract.
  - a) **Comprehensive Insurance.** The FSMC shall maintain, for the protection of the LEA and the FSMC, comprehensive general liability insurance with coverage of not less than \$1,000,000 for each claim, incident, or occurrence and at least \$2,000,000 annual aggregate coverage. That insurance must be applicable to all work performed under this Contract and include, but not be limited to, bodily and personal injury liability, broad form property damage liability, independent contractor liability, contractual liability, sexual abuse and molestation liability, and products liability. FSMC shall deliver to the LEA a certificate evidencing such policies and coverage within thirty (30) days after the execution of this Contract by the parties.
  - b) **Auto Liability Insurance.** FSMC shall maintain commercial auto liability insurance applicable to owned, non-owned, and hired automobiles with coverage of not less than \$1,000,000 for each claim, incident, or occurrence and at least \$2,000,000 annual aggregate coverage.
  - c) **Food Liability Insurance.** FSMC shall maintain food liability insurance with coverage of not less than \$1,000,000 for each claim, incident, or occurrence and at least \$2,000,000 annual aggregate coverage.
  - d) **Cyber Liability Insurance.** FSMC shall maintain commercial cyber liability insurance with coverage of not less than \$1,000,000 for each claim, incident, or occurrence and at least \$2,000,000 annual aggregate coverage.

- e) **General Insurance Requirements.** FSMC is responsible for payment of deductibles for its insurance policies. The insurance policies required under this Contract shall contain a covenant by the issuing company that the policies will not be canceled unless a thirty (30) day prior written notice of cancellation is given to the LEA. The policies shall also name "Riverdale School District" as an additional insured, but only with respect to operations of the FSMC under this Contract. A cross-liability clause or separation of insureds condition shall be included in all applicable policies required by this Contract. FSMC's coverage shall be primary in the event of loss. The policies shall provide extended reporting period coverage for claims made within two years after this Contract is terminated. All policies must be issued by an insurance company authorized to do business in the State of Oregon with a minimum financial rating of an AM Best rating of A- or higher. All insurance will be arranged on an "occurrence" basis. However, if insurance is arranged on a "claims made" basis, the policies must provide extended reporting period coverage for claims made within two years after this Contract is terminated.
10. **Other Contracts.** LEA may undertake or award other contracts for additional or related work, and FSMC agrees to cooperate fully with such other contractors and with any LEA employees. When requested by LEA, FSMC shall coordinate its performance under this Contract with such additional or related work. The FSMC shall not commit or permit any act that will interfere with the performance of work by any other contractor or by LEA employees.
11. **Trade Secrets.**
- a) FSMC's pre-existing recipes, surveys and studies, management guidelines, operating manuals, and similar documents regularly used in the operation of the FSMC's business shall maintained as confidential or proprietary materials if identified as such by FSMC. LEA shall treat all materials identified by FSMC as confidential, and LEA shall exercise the same level of care in maintaining the confidentiality of FSMC's materials as it would employ in maintaining the confidentiality of its own materials. LEA claims no right to any pre-existing work product of FSMC provided to LEA by FSMC except to copy, use, or re-use any such work product for LEA use only. All such materials shall remain the exclusive property of FSMC and shall be returned to the FSMC immediately upon termination of this Contract.
  - b) The LEA shall have no right to the use trademarks, service marks, copyrights, or trade names of the FSMC following termination of this Contract. FSMC shall remove all evidence of its trade names and registered trademarks from LEA's facilities within thirty (30) days after termination of this Contract.
12. **Limitation of Liability.** FSMC agrees that, to the fullest extent permitted by law, LEA shall not be liable to FSMC for any special, indirect, or consequential damages whatsoever, whether caused by negligence, errors, omissions, strict liability, breach of contract, breach of warranty or other cause or causes whatsoever.

13. **Assignment.** FSMC is prohibited from assigning, transferring, delegating, or subcontracting (“Assignment,” and a recipient of an Assignment is an “Assignee”) any of its duties, rights, or interests under this Contract without LEA’s prior written consent. LEA may withhold such consent for any or no reason. Any Assignee shall be subject to the terms and conditions of this Contract. The parties agree that any Assignment shall be construed as a matter solely between the FSMC and its Assignee and shall have no binding effect on LEA. FSMC shall remain a party to and subject to the requirements of this Contract regardless of any Assignment, regardless of whether such Assignment is approved by LEA.
14. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their heirs, successors, and Assignees, if any.
15. **No Third-Party Beneficiaries.** LEA and FSMC are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to any third party.
16. **Notice.** Any notice required or provided for under this Contract shall be in writing and shall be delivered personally or sent by US registered or certified mail, postage prepaid, and return receipt requested, addressed to the other party as follows:

Notices to LEA:  
Riverdale School District 51J  
11733 S Breyman Ave  
Portland, OR 97219

Notices to the FSMC:

TBD

Notices shall be effective when received.

17. **Attorney’s Fees.** If any action or proceeding is necessary to enforce the provisions of this Contract, including any claim or demand, or to interpret this Contract, the prevailing party shall be entitled to reasonable attorney’s fees, costs, and necessary disbursements in addition to any other relief to which it may otherwise be entitled, whether or not such action or proceeding is prosecuted to judgment.
18. **Indemnity.** FSMC shall defend, indemnify, and hold LEA, its officers, directors, employees, volunteers, and agents harmless against all liabilities, losses, expenses, claims, actions, or judgments (including attorney fees) (“Damages”) resulting from the acts or omissions of FSMC and FSMC Personnel in the performance of this Contract. This provision is in addition to any common law or statutory right of indemnification available to LEA. However, FSMC obligation to indemnify shall not extend to any Damages caused by LEA’s negligent or reckless acts or omissions. LEA must promptly notify FSMC in writing of any such claim or demand to indemnify and shall cooperate with FSMC in a reasonable manner to defend such claim. LEA’s obligation to indemnify is subject to the limitations of the Oregon Tort Claim Act and Article XI, Section 7 of the Oregon Constitution.

19. **Force Majeure.** With the exception of payment obligations for prior performance under this Contract, neither party shall be liable for the failure to perform their respective obligations under this Contract when such failure is caused by fire, explosion, water, act of nature, pandemic, civil disorder, strikes, vandalism, war, riot, sabotage, weather, and energy-related closings, or other like causes beyond the reasonable control of either party, nor for any real or personal property destroyed or damaged due to such causes (“Force Majeure”). Force Majeure does not include any event or condition that could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. For the sake of clarity without limiting the foregoing, Force Majeure includes any circumstance in which LEA’s Board imposes a furlough or similar reduction in LEA operations. In the event of Force Majeure:
- a) The FSMC shall resume food service operations as soon as possible after such Force Majeure has concluded or abated; or
  - b) LEA may terminate this Contract in accordance with the terms of this Contract upon determination that Force Majeure will reasonably prevent successful performance of the Contract.
20. **Controlling Law; Venue.** This Contract will be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between FSMC and LEA will be brought and conducted solely and exclusively in the Circuit Court for Multnomah County for the State of Oregon. However, if any claim, action, or suit must be brought in a federal forum, it will be brought and conducted exclusively in the United States District Court for the District of Oregon. BY EXECUTION OF THIS CONTRACT, FSMC CONSENTS TO IN PERSONAM JURISDICTION OF SUCH COURTS. In no event will any part of this Contract be construed as a waiver by LEA of its sovereign and governmental immunities.
21. **Construction and Effect.** A waiver of any failure under this Contract shall neither be construed as, nor constitute a waiver of, any subsequent failure. This Contract supersedes all prior negotiations, representations, or agreements. The Article and Section headings are used solely for convenience and shall not be deemed to limit the subject of the Articles and Sections or be considered in their interpretation. This Contract may be executed in several counterparts, each of which shall be deemed an original.
22. **Amendments to the Contract.** Each of the Articles and Appendixes shall remain in effect throughout the term of this Contract unless the parties mutually agree, in a written document signed by both parties and attached to this Contract, to amend, add, or delete an Article or Appendix. Any amendment to this Contract shall become effective at the time specified in the amendment.

## **VII. ATTACHMENTS**

- A. PROPOSER CERTIFICATIONS AND REPRESENTATIONS**
- B. INDEPENDENT CONTRACTOR CERTIFICATION**
- C. NON-CONFLICT OF INTEREST CERTIFICATION**
- D. REFERENCES**
- E. DISTRICT MAP**
- F. SCHOOL CALENDAR**